



भारत का राजपत्र The Gazette of India

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह जसन संकलन के रूप में
रखा जा सके

Separate Paging is given to this Part in order that it may be filed as a
separate compilation

भाग II—खण्ड 3—उप-खण्ड (II)
PART II—Section 3—Sub-Section (II)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं
Statutory Orders and Notifications Issued by the Ministries of the Government of India
(other than the Ministry of Defence)

कार्मिक, लोक शिकायत तथा पेंशन मंत्रालय

वाहियों का संचालन करने के लिये विशेष लोक अभियोजक
के रूप में नियुक्त करती है।

(कार्मिक और प्रशिक्षण विभाग)

[सं. 225/20/2001-ए.पी.जी.-II]

नई दिल्ली, 18 दिसम्बर, 2001

शुभा ठाकुर, अवसर सचिव

का. आ. 3484.—केन्द्रीय सरकार एतद्वारा दंड
प्रक्रिया संहिता, 1973 (1974 का अधिनियम सं. 2)
की धारा 24 की उप-धारा (8) द्वारा प्रदत्त शक्तियों का
प्रयोग करते हुये, श्री सुभाष चन्द्र भारद्वाज, अधिवक्ता,
पटना को अतिरिक्त जिला एवं सत्र न्यायाधीश, पटना के
न्यायालय में मामला सं. आरसी 2(एस)/97-एससीबी-II,
नई दिल्ली तथा उससे संबंधित अथवा तात्कालिक रूप
से जुड़े अन्य किसी मामले के विचारण तथा अन्य कार्य-

MINISTRY OF PERSONNEL, PUBLIC
GRIEVANCES AND PENSION

(Department of Personnel & Training)

New Delhi, the 18th December, 2001

S. O. 3484.—In exercise of the powers con-
ferred by sub-section (8) of section 24 of the Code
of Criminal Procedure, 1973 (Act No. 2 of 1974),
the Central Government hereby appoints

Sh. Subhash Chandra Bhardwaj, Advocate, Patna as Special Public Prosecutor to conduct the prosecution and other proceedings in the case No. RC-2(S)/97-SCB-II/New Delhi in the court of Addl. Distt. & Session Judge, Patna and any other matter connected therewith or incidental thereto.

[No. 225/20/2001-AVD-II]

SHUBHA THAKUR, Under Secy.

नई दिल्ली, 18 दिसम्बर, 2001

का.आ. 3485.—केन्द्रीय सरकार दंड प्रक्रिया संहिता, 1973 (1974 का अधिनियम सं. 2) की धारा 24 की उपधारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुये, मामला संख्या (1) (आर.सी. 3(ए)/94/ए.पू.सी. (1)-[सी.सी. संख्या 22(सी)/97], (2) आर.सी. 3(ए)/94/ए.सी.यू. (I)-[सी.सी. संख्या 36(सी)/97], (3) आर.सी. 4(ए)/94/ए.सी.यू. (1)-[सी.सी. संख्या 19(सी)/97], (4) आर.सी. 5(ए)/94/ए.सी.यू. (1)-[सी.सी. संख्या 06(सी)/97], (5) आर.सी. 5(ए)/94/ए.सी.यू. (1)-[सी.सी. संख्या 37(सी)/97], और (6) आर.सी. 3(ए)/94/ए.सी.यू. (II)-[सी.सी. संख्या 16(सी)/98, 538/2000] और इससे जुड़े अथवा अन्य अनुसंगिक मामलों के अनियोजन और अन्य कार्यवाहियों के, विशेष न्यायाधीश, गुवाहाटी की अदालत में संचालन करने के लिये श्री वी.एन. ओझा, अधिवक्ता, नई दिल्ली को विशेष लोक अभियोजक नियुक्त करती है।

[संख्या 225/30/2001-ए.वी.डी-II]

शुभा ठाकुर, अवसर सचिव

New Delhi the 18th December, 2001

S. O. 3485. In exercise of the powers conferred by sub-section (8) of section 24 of the Code of Criminal Procedure, 1973 (Act No. 2 of 1974), the Central Government hereby appoints

Sh. V. N. Ojha, Advocate, New Delhi as Special Public Prosecutor to conduct the prosecution and other proceedings in Case Nos. RC. 3(A)/94-ACU (I) [C.C. No. 22(C)/97], (2) RC-3 (A)/94-ACU. (I) [C.C. No. 36 (C)/97], (3) RC-4 (A)/94-ACU. (I) [C.C. No. 19 (C)/97], (4) RC-5 (A)/94-ACU (I) [C.C. No. 06 (C) 97], (5) RC-5 (A)/94-ACU. (I) [C.C. No. 37 (C)/97], & (6) RC-3 (A)/94-ACU. II [C. C. No. 16 (C)/98-538/2000], in the Court of Special Judge, Guwahati, and any other matter connected therewith or incidental thereto.

[No. 225/30/2001-AVD-II]

SHUBHA THAKUR, Under Secy.

नई दिल्ली, 18 दिसम्बर, 2001

का.आ. 3486.—केन्द्रीय सरकार एतद्वारा दिल्ली विशेष पुलिस स्थापना अधिनियम, 1946 (1946 का अधिनियम सं. 25) की धारा 6 के साथ पठित धारा 5 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुये कर्नाटक राज्य सरकार की अधिसूचना सं. एच.डी. 120 पीसीआर 2001 दिनांक 10 जुलाई, 2001 द्वारा प्राप्त कर्नाटक राज्य सरकार की सहमति में दिल्ली विशेष पुलिस स्थापना, के. अ. व्यूरो, एसीबी, बंगलूर में दर्ज मामला आरसी 23(ए)/2001-बंगलूर में (1) श्रीयुक्त चित्तरंजन गेट्टी वरिष्ठ शाखा प्रबंधक, विजया बैंक, बानी विलास रोड, ब्रांच, बंगलूर (2) श्री रमेश हेगड़े प्रोपराइटर, सैसर्स हेगड़े कन्स्ट्रक्शन्स, इंजीनियर्स एंड फाट्रेक्टर्स, नं. 917, तृतीय मेन रोड, चौथा चौराहा, विजय नगर, बंगलूर एवं किन्हीं अन्य लोकसेवकों अथवा व्यक्ति के विरुद्ध भारतीय दंड संहिता, 1860 की धारा 120-बी पठित धारा 420, 468, 471 और अप्टाचार निवारण अधिनियम, 1988 की धारा 13(2) सपठित धारा 13(1) (डी) के अन्तर्गत दंडनीय अपराधों और उपर्युक्त अपराधों में से एक अथवा अधिक से संबंधित अथवा संसदत प्रयत्नों, दुप्रेषणों

और षड्यंत्र तथा उसी संव्यवहार के अनुक्रम में किये गये अथवा उन्हीं तथ्यों से उद्भूत किसी अन्य अपराध और अपराधों के अन्वेषण के लिये दिल्ली विशेष पुलिस स्थापना के सदस्यों की शक्तियों और अधिकारिता का विस्तार सम्पूर्ण कर्नाटक राज्य पर करता है।

[सं. 228/71/2001-ए.वी.डी.-II(i)]

हरि सिंह, अवग सचिव

New Delhi, the 18th December, 2001

S. O. 3486.—In exercise of the powers conferred by sub-section (1) of Section 5 read with Section 6 of the Delhi Special Police Establishment Act, 1946 (Act No. 25 of 1946), the Central Government with the consent of the State Government of Karnataka vide notification No. HD, 120 PCR 2001, dated 10th July, 2001, hereby extends the powers and jurisdiction of the members of the Delhi Special Police Establishment to the whole of the State of Karnataka for investigation of offences punishable under Section 120-B read with 420, 468, 471 of the Indian Penal Code, 1860 and Section 13(2) read with 13(1)(d) of Prevention of Corruption Act, 1988, and attempts, abetments and conspiracy in relation to or in connection with one or more of the offence mentioned above and any other offence and offences committed in the course of the same transaction or arising out of the same facts against Sriyuths Chitranjan Shetty, Sr. Branch Manager, Vijaya Bank, Vani Vilas Road Branch, Bangalore (2) Shri Ramesh Hegde, Proprietor, M/s. Hegde Constructions,

Engineers and Contractor., No. 917, 3rd Main road, 4th Cross, Vijaya Nagar, Bangalore and any other public servants or person registered with DSPE/CBI/ACB/Bangalore vide RC. 23 (A)/2001-BLR.

[No. 228/71/2001-AVD-II (i)]

HARI SINGH, Under Secy.

नई दिल्ली, 18 दिसम्बर, 2001

का.आ. 3487.—केन्द्रीय सरकार एतद्वारा दिल्ली विशेष पुलिस स्थापना अधिनियम, 1946 (1946 का अधिनियम सं. 25) की धारा 6 के साथ पठित धारा 5 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुये, कर्नाटक राज्य सरकार की अधिसूचना सं. एचडी 121 पीसीआर 2001 दिनांक 27 जुलाई, 2001 द्वारा प्राप्त कर्नाटक राज्य सरकार की सहमति से दिल्ली विशेष पुलिस स्थापना के अ. व्यूरो, एसीबी, बंगलूर में वर्ज मामला आर.सी-26(ए)/2001-बंगलूर में श्री अंजनया, डिवीजनल इंजीनियर, दूरसंचार विभाग (बी एसएनएल), बेल्लारी एवं किन्हीं अन्य लोक सेवकों अथवा व्यक्ति के विरुद्ध अप्रत्याचार निवारण अधिनियम, 1988 की धारा 13(2) सपठित धारा 13(1) (ई) के अधीन दंडनीय अपराधों और उपर्युक्त अपराधों में से एक अथवा अधिक से संबंधित अथवा संसक्त प्रयत्नों, दुष्प्रेरणों और षड्यंत्र तथा उसी संव्यवहार के अनुक्रम में किये गये अथवा उन्हीं तथ्यों से उद्भूत किसी अन्य अपराध और अपराधों के अन्वेषण के लिये दिल्ली विशेष पुलिस स्थापना के सदस्यों की शक्तियों और अधिकारिता का विस्तार सम्पूर्ण कर्नाटक राज्य पर करता है।

[सं. 228/71/2001-ए.वी.डी.-II(ii)]

हरि सिंह, अवग सचिव

New Delhi, the 18th December, 2001

S.O. 3487. —In exercise of the powers conferred by Sub-section (1) of Section 5 read with Section 6 of the Delhi Special Police Establishment Act, 1946 (Act No. 25 of 1946), the Central Government with the consent of the State Government of Karnataka vide notification No. HD 121 PCR 2001, dated 27th July, 2001, hereby extends the powers and jurisdiction of the members of the Delhi Special Police Establishment to the whole of the State of Karnataka for investigation of offences punishable under Section 13(2) read with 13(1)(e) of the Prevention of Corruption Act, 1988, and attempts, abetments and conspiracy in relation to or in connection with one or more of the offence mentioned above and any other offence and offences committed in the course of the same transaction or arising out of the same facts against Shri Anjanayya, Divisional Engineer, Department of Telecommunication (BSNL), Bellary and any other public servants or person registered with DSPE/CBI/ACB/Bangalore vide RC.26(A)/2001-BLR.

[No. 228/71/2001-AVD-II (ii)]

HARI SINGH, Under Secy.

संचार मंत्रालय

(दूरसंचार विभाग)

(राजभाषा अनुभाग)

नई दिल्ली, 14 दिसम्बर, 2001

क्र. 3488.—केन्द्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिये प्रयोग) नियम 1976 के 10(4) के अनुसरण में संचार मंत्रालय, दूरसंचार प्रशासनिक नियंत्रणाधीन निम्नलिखित कार्यालय

को जिसमें 80 प्रतिशत से अधिक कर्मचारियों ने हिंदी का कार्यसाधक ज्ञान प्राप्त कर लिया है, एतद्वारा अधिसूचित करती है।

मुख्य महाप्रबंधक दूरसंचार, भारत सरकार निगम लिमिटेड, हरियाणा परिमण्डल अम्बाला महाप्रबंधक दूरसंचार, भारत सरकार संचार निगम लिमिटेड, जिला गुडगांव

[सं. ई.-11016/1/99-रा.भा.]

आर.डी. मासीवाल

निदेशक (राजभाषा)

MINISTRY OF COMMUNICATIONS

(Department of Telecommunication)

(Official Language Section)

New Delhi, the 14th December, 2001

S. O. 3488.—in pursuance of rule 10(4) of the Official Language (use for official purpose of the Union), rules, 1976 the Central Government hereby notifies following offices under the administrative control of Ministry of Communications (Department of Telecommunications where of more than 80% staff have acquired working knowledge of Hindi.

Chief General Manager Telecom, BSNL, Haryana Circle, Ambala

General Manager Telecom BSNL Distt. Gurgaon

[No. E.-11016/1/99-O.L.]

R. D. MASIWAL, Director (O. L.)

पेट्रोलियम और प्राकृतिक गैस मंत्रालय

अधिसूचना

नई दिल्ली, 21 दिसम्बर, 2001

का.आ. 3489(अ).—केन्द्रीय सरकार ने पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग का अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 3 की उपधारा (1) और (2) के अधीन जारी की गई भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना संख्यांक का. आ. 2363 तारीख 4 सितम्बर, 2001 द्वारा उस अधिसूचना से उपाबद्ध अनुसूची में विनिर्दिष्ट भूमि में भारत पेट्रोलियम कार्पोरेशन लिमिटेड के मनमाड संस्थापन (पानेवाडी) महाराष्ट्र राज्य से मांगल्या (इंदौर) मध्यप्रदेश तक पेट्रोलियम उत्पादों के परिवहन के लिए भारत पेट्रोलियम कार्पोरेशन लिमिटेड द्वारा पाइपलाइन बिछाने के प्रयोजन के लिए उपयोग के अधिकार का अर्जन करने के लिए अपने आशय की घोषणा की थी;

और उक्त राजपत्र अधिसूचना की प्रतियां जनता को तारीख 6 अक्टूबर, 2001 को उपलब्ध करा दी गई थीं;

और सक्षम प्राधिकारी ने उक्त अधिनियम की धारा 6 की उपधारा (1) के अधीन केन्द्रीय सरकार को अपनी रिपोर्ट दे दी है;

अतः अब, केन्द्रीय सरकार उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि इस अनुसूची में विनिर्दिष्ट उक्त भूमि में पाइपलाइन बिछाने के लिए उपयोग के अधिकार का अर्जन किया जाए

और केन्द्रीय सरकार, उक्त अधिनियम की धारा 6 की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निर्देश देती है कि उक्त भूमि में उपयोग का अधिकार इस घोषणा के प्रकाशन की तारीख से केन्द्रीय सरकार में निहित होने के बजाए, सभी विल्लंगमों से मुक्त भारत पेट्रोलियम कार्पोरेशन लिमिटेड में निहित होगा।

ग्राम का नाम	गट/सर्वे नंबर	क्षेत्र		
		हेक्टेयर	आर	चौरस मीटर
कुलधे—जारी	143	0	01	80
	कमोली नाला	0	04	42
	134/1	0	02	06
	134/2	0	02	05
	138/ब/4	0	23	78
	138/ब/3	0	24	00
	138 अ	0	33	11
	कच्चा रास्ता	0	00	74
	137/1	0	06	76
	137/2	0	52	45
	ओ.डी.आर.-102	0	00	78
	6/11	0	47	58
	नाला	0	01	82
	7/2/1	0	04	00
	7/2/2	0	04	50
	7/1-3	0	01	50
	7/1-2	0	10	00
	7/1	0	05	47
	नाला	0	01	21
	61	0	20	98
	60	0	00	22
	62/2	0	17	50
	62/4	0	17	50
	62/3	0	17	24
	64	0	30	73
2. मंडल	कच्चा रास्ता	0	00	53
	72/1	0	27	84
	72/2			
	73/1/1			
	73/1/2			
	73/1/3	0	33	85
	73/2			
	73/3/1			
	73/3/2			
	73/3/3			
	नाला	0	02	46
	गाम रोड-124	0	00	42
	71.1			
	74/2			
	74/3	0	11	69
	74/4			
	74/5			
अनुसूची	कैनाल	0	01	06
	66	0	44	22
	नाला	0	00	55
	84	0	28	13
	86	0	09	85
	85/1	0	21	60
	85/2			
	नाला	0	01	19

अनुसूची				
तहसील : धुलिया	जिला : धुलिया	राज्य : महाराष्ट्र		
ग्राम का नाम	गट/सर्वे नंबर	क्षेत्र		
		हेक्टेयर	आर	चौरस मीटर
1	2	3	4	
1 कुलधे	152 अ1	0	10	00
	152 अ2 2	0	10	00
	152 अ2.1	0	04	50
	152/2 1	0	04	50
	152 ब/1	0	48	00
	152 ब 2	0	16	00
	152 अ 2/2	0	04	30
	145	0	10	91
	कच्चा रास्ता	0	00	45
	144	0	48	59

ग्राम का नाम	गट/सर्वे नंबर	क्षेत्र			ग्राम का नाम	गट/सर्वे नंबर	क्षेत्र		
		हेक्टेयर	आर	चौरस मीटर			हेक्टेयर	आर	चौरस मीटर
मंडल—जारी	87/1				बोरकुंड—जारी	215/अ/1/1	0	18	42
	87/2	0	39	90		215/अ/ब/1/1	0	06	70
	87/3/1					215/अ/1/2	0	18	42
	83/अ	0	11	76		215/ब/1/2	0	06	70
	83/ब					215/अब/1/1	0	06	70
	92	0	30	53		215/ब/1/फ	0	05	70
	104	0	16	81		बोरी नदी	0	17	42
	103	0	48	54	4. बोरकुंड (रतनपुरा)	251	0	18	00
	102/11/2	0	05	00		247	0	20	16
	102/11/1	0	05	00		246/1	0	01	00
	102/10	0	06	50		246/2	0	10	80
	102/8	0	14	50		बोरकुंड मंडल रोड	0	01	62
	102/7	0	10	99		245/1अ			
	102/6/4	0	10	00		245/1ब	0	24	66
	102/5/3	0	03	00		245/2			
	102/6/2	0	02	00		282 भाग	0	31	86
	112/1					ग्राम रोड-15	0	04	32
	112/2	0	76	19		281/2ब			
	112/3					281/2क	0	16	38
	112/4					281/2			
	113/1	0	32	34		कच्चा रास्ता	0	01	80
	ग्राम रोड-149	0	01	25		285/2	0	50	76
	116/1	0	20	00		286	0	04	86
	116/2	0	12	60		नदी	0	11	70
	116/3	0	06	88		614	0	22	50
	116/4	0	06	88		615	0	12	60
	116/5	0	06	88		612/3			
	118 भाग	0	28	81		612/4	0	12	24
	झोडगा बोरकुल रोड	0	02	12		ग्राम रोड-155	0	02	70
	135	0	10	56		617	0	26	46
	नाला	0	04	73		619	0	15	12
	134	0	33	04		607	0	13	75
	नाला	0	00	51		606/1	0	50	40
	120/1	0	03	82		606/2	0	50	40
	120/2	0	14	00	3. बोरकुंड	कच्चा रास्ता	0	00	90
	120/3	0	14	00		212	0	27	87
	121/1	0	02	05		211	0	21	29
	121/2					210	0	12	47
3. बोरकुंड	कच्चा रास्ता	0	01	14		214/1			
	212	0	27	87		214/2अ	0	07	56
	211	0	21	29		214/2ब			
	210	0	12	47		603/1			
	214/1					604	0	07	20
	214/2अ	0	07	56		603/2			
	214/2ब					ओ.डी.आर.-105	0	04	50
						628	0	33	48
						नाला	0	02	52

ग्राम का नाम	गट/सर्वे नंबर	क्षेत्र			ग्राम का नाम	गट/सर्वे नंबर	क्षेत्र		
		हेक्टेयर	आर	चौरस मीटर			हेक्टेयर	आर	चौरस मीटर
बोरकुंड (रतनपुरा)—जारी	602/1				विचुर बुद्धख—जारी	82/1अ	0	05	70
	602/2	0	27	00		82/2	0	11	21
	602/3					83	0	10	92
	नाला	0	03	78		कच्चा रास्ता	0	00	41
	629	0	17	10		109/1/1			
5. दोँदवाड	580	0	25	56		109/1/2			
	59/2	0	14	67		109/1/3	0	48	35
	65/1	0	12	79		109/1/4			
	65/2	0	10	50		97/1	0	01	04
	65/3	0	10	50		97/2अ	0	01	04
	कैनाल	0	00	51		97/2ब/1	0	02	08
	67/1	0	01	02		97/2ब/2	0	02	08
	67/2	0	01	86		कैनाल	0	00	74
	71/1	0	06	57		98/1/1	0	02	05
	71/2	0	06	56		98/1/2	0	02	06
	71/3	0	06	56		98/2/1	0	04	00
	71/4	0	06	56		98/2/2	0	04	00
	70/1	0	14	09		100/1	0	11	00
	70/2	0	14	09		100/2	0	11	17
	72/1					100/3	0	11	17
	72/2/1					101/1अ	0	02	75
	72/2/2					101/1ब/1	0	01	60
	72/2/3	0	12	83		101/1ब/2	0	01	40
	72/2/3					101/1क/1	0	01	60
	72/2/4					101/1/2	0	02	00
	72/2/5					101/1ड	0	02	75
	72/3					101/1अ	0	03	00
	72/4					नाला	0	00	75
	72/5					राजमार्ग 211	0	06	39
	72/6					102/1/1अ	0	09	90
	नाला	0	02	86	7. शिरुड	नाला	0	04	11
	92/1	0	14	96		कच्चा रास्ता	0	00	72
	92/2	0	15	00		791/1	0	13	50
	95/1अ/1					791/2			
	95/1अ/2					790/1			
	95/1ब	0	00	14		790/2	0	19	44
	95/2					790/3			
	95/3					790/4			
	95/4					789	0	47	52
	93	0	13	65		कच्चा रास्ता	0	00	97
6. विचुर बुद्धख	94	0	01	17					
	91	0	19	05					
	80/2अ-1	0	06	80					
	80/1अ/1	0	55	44					
	नाला	0	00	40					
	81	0	00	97					
	82/1अ	0	05	50					

ग्राम का नाम	गट/सर्वे नंबर	क्षेत्र			ग्राम का नाम	गट/सर्वे नंबर	क्षेत्र		
		हेक्टेयर	आर	चौरस मीटर			हेक्टेयर	आर	चौरस मीटर
शिरुड—जारी	788/1				शिरुड—जारी	54/1			
	788/1अ				54/2	0	08	55	
	788/1क	0	27	70	54/3				
	788/2/2				ओ.डी.आर.-113	0	02	51	
	805/1अ				53/1	0	01	36	
	805/1अ	0	36	00	53/2				
	805/2अ				65/1अ				
	805/2अ				65/1अ	0	23	83	
	नाला	0	02	70	65/2				
	नाला	0	01	92	66/1				
	नाला	0	01	85	66/2	0	62	86	
	772/1	0	53	10	66/3				
	772/2				नाला	0	01	80	
	821	0	09	18	71/1				
	नाला	0	02	70	71/2अ	0	18	00	
	कच्चा रास्ता	0	00	81	68/1अ				
	822/1	0	15	48	68/1अ				
	822/2				68/2अ	0	24	00	
	825/1				68/2अ				
	825/2				68/2क				
	825/3				68/3				
	825/4	0	01	80	नाला	0	01	80	
	825/5				70	0	18	00	
	839/1	0	34	20	76	0	06	30	
	839/2				78/1अ	0	09	36	
	ग्राम रोड-118	0	01	80	78/1अ				
	838/3	0	06	30	कच्चा रास्ता	0	01	44	
	840/1				906	0	16	20	
	840/2	0	29	16	77/1				
	840/3				77/2	0	28	80	
	नाला	0	00	72	77/3				
	837	0	15	96	130/2				
	रेल मार्ग	0	06	02	130/3	0	31	68	
	कच्चा रास्ता	0	01	48	130/4				
	842/1अ				कच्चा रास्ता	0	01	44	
	842/1अ	0	16	61	नाला	0	01	59	
	842/2				57/2/1	0	94	89	
	नाला	0	09	90	57/3				
	55/1	0	35	28	शिरुड विसरणे रोड	0	00	49	
	55/2				55	0	29	72	
	नाला	0	00	65	49/1	0	04	72	
	44/1				49/2				
	44/2				48/1				
	44/3	0	01	89	48/2	0	07	75	
	44/4				48/3				
	44/5				9 वेल्हाणे बुद्रुख	360	0	03	42
	44/6				326	0	68	40	
	46	0	29	85	324	0	00	20	

ग्राम का नाम	गट/सर्वे नंबर	क्षेत्र			ग्राम का नाम	गट/सर्वे नंबर	क्षेत्र		
		हेक्टेयर	आर	चौरस मीटर			हेक्टेयर	आर	चौरस मीटर
बेल्हाणे बुद्ध—जारी	327	0	00	20	तांडा कुंडाणे—जारी	45	0	21	96
नाला		0	01	44	46		0	16	20
323/1		0	30	60	47/1		0	05	40
323/2					47/2				
नाला		0	05	40	नाला		0	02	70
322/1		0	16	20	67/1				
एम.डी.आर.-43		0	01	98	67/2		0	52	56
293/1/1					67/3				
293/1/2		0	30	24	67/4				
294/1					68		0	15	84
294/2		0	40	68	नाला		0	02	52
294 भाग					70		0	14	58
303/2/1					नाला		0	00	36
303/2/2		0	10	26	73		0	03	96
303/2/3					72/2		0	07	56
303/2/4					कैनाल		0	03	24
नाला		0	02	70	74/1		0	13	50
304/1		0	72	54	74/2				
304/2					75				
306/1					75 भाग		0	10	26
306/2		0	29	88	नाला		0	01	44
306/3					109/1/1				
306/4					109/1/2		0	15	30
307		0	06	48	109/2				
कच्चा रास्ता		0	01	26	109/1/3				
88 भाग		0	91	80	नाला		0	03	96
कच्चा रास्ता		0	00	97	108/1				
कच्चा रास्ता		0	00	68	108/2		0	03	60
नाला		0	03	60	107		0	25	20
74/1					104		0	20	70
74/2		0	14	94	नाला		0	01	26
74 पैकी					103		0	11	88
ओ.डी.आर.-112		0	04	50	102/1		0	20	52
23		0	14	40	102/1				
15/1		0	30	60	नाला		0	01	98
15/2					84 भाग		0	07	89
14/1					84 भाग		0	31	59
14/2		0	14	40	नाला		0	04	64
14/3					80		0	20	88
14/4					नाला		0	01	80
नाला		0	04	68	एम.डी.आर.-43		0	05	40
12/1		0	24	48	81/1		0	09	36
12/2					81/2				
नाला		0	04	32	77/1/1				
10. तांडा कुंडाणे	44	0	22	86	77/1/2		0	27	89
कच्चा रास्ता		0	01	44	77/2				
					77/3				
					75		0	00	66

ग्राम का नाम	गट/सर्वे नंबर	क्षेत्र			ग्राम का नाम	गट/सर्वे नंबर	क्षेत्र		
		हेक्टेयर	आर	चौरस मीटर			हेक्टेयर	आर	चौरस मीटर
अंवाडे—जारी	74/1	0	17	82	चिचखेडे—जारी	ओ.डी.आर.-110	0	02	60
	74/2					63/1	0	37	21
	76/1					63/4			
	76/2	0	20	16		कच्चा रास्ता	0	00	72
	76/3					64/1अ	0	18	18
	76/4					69	0	34	20
	71/1	0	07	34		67/1अ			
	71/2					67/1अ-2	0	31	01
	70/1	0	23	94		माला	0	04	60
	70/2					14. आमदाड	0	03	92
	66	0	62	10		22			
	नाला	0	01	54		25/1-1अ			
	57	0	04	26		25/1-1ब/1अ			
	58	0	06	56		25/1-1ब/1ब			
	59	0	05	02		25/2अ-1अ	1	08	00
	50	0	18	55		25/2ब			
	नाला	0	00	71		25/2अ/2			
	52	0	25	69		25/1-1क			
	31	0	24	01		25/3			
	कच्चा रास्ता	0	00	50		25/2अ/1ब			
12 वजीरखेडे	33/1	0	08	32	15. भिरडाणे	नाला	0	00	46
	33/2					कच्चा रास्ता	0	03	30
	30/1	0	01	02		75/1ब	0	14	04
	30/2					78/1	0	36	05
	29	0	36	38		78/2			
	माला	0	06	63		नाला	0	00	85
	11	0	12	76		81	0	60	76
	एम.डी.आर. 42	0	00	76		224/1	0	68	66
	10	0	15	92		224/2			
	नाला	0	03	79	16 मुफटी	माला	0	02	23
13 चिचखेडे	48/1					231	0	11	09
	48/2-1					232/1	0	12	96
	48/2ब	0	38	96		233/1	0	14	22
	48/3					234/1अ			
	49/1	0	17	04		234/1क			
	49/2					234/1अ/1अ	0	39	99
	50/1	0	16	39		234/2			
	50/2					260/1			
	51	0	25	47		260/2/2			
	माला	0	00	54		260/2/3	0	34	56
	कच्चा रास्ता	0	01	53		260/2/4			
	61/1					261	0	12	06
	61/2	0	56	16		नाला	0	03	92
	61/3					माला	0	15	22
	60	0	00	20					
	62/1अ	0	30	43					
	62/1ब								

ग्राम का नाम	गट/सर्वे नंबर	क्षेत्र			ग्राम का नाम	गट/सर्वे नंबर	क्षेत्र		
		हेक्टेयर	आर	चौरस मीटर			हेक्टेयर	आर	चौरस मीटर
मुकटी—जारी	262	0	15	12	नंदाले खुर्द—जारी	कच्चा रास्ता	0	00	74
	ग्राम रोड 23	0	02	34		77	0	32	22
17. कासविहीर	43/1-1					82/1	0	28	44
	43/1-2					82/2			
	43/1-3					83/1			
	43/1-4					83/2			
	43/1-5	0	44	83		83/3/1	0	45	36
	43/2-1					83/2/2			
	43/2-2					83/3/4			
	43/2-3					ग्राम रास्ता-75	0	00	63
	43/2-4					कानेरी नदी	0	08	28
	43/2-5					84	0	19	80
18. नंदाले खुर्द	56/1	0	24	89	19. नंगाल खुर्द	1/1/अ1			
	56/2					1/अ2			
	राष्ट्रीय महामार्ग-6	0	06	30		1/अ3			
	51/1/1	0	30	90		1/क2			
	51/2					1/क4			
	50	0	10	67		1/ख	0	35	46
	49/1	0	11	18		1/क/1			
	49/2					1/ड/1			
	48	0	03	47		1/ड2/ख			
	52/1					1/ड2/अ			
	52/2	0	05	75		1/क-3			
	52/3					1/1अ2			
	53/1					1/1-अ3			
	53/2	0	13	11		7/1			
	53/3					7/2अ	0	55	80
	37	0	22	56		7/3			
	38	0	19	30		6/1अ			
	40/1-1					6/1ब-1			
	40/1-2	0	16	20		6/1/क			
	40/1-3अ					6/1/ड2	0	00	95
	40/2					6/1/ब2			
	39	0	01	64		6/1ड1			
	29	0	35	01		6/2			
	30/1					6/3/1			
	30/2	0	08	97		पाला	0	01	80
	30/3				20. आंबोडे	441/1			
	30/4					441/2	0	14	04
	27	0	18	53		441/3			
	25	0	20	42		442	0	35	10
	24	0	12	96		449/1			
	नंदाले रोड	0	03	96		449/2	0	46	30
	23	0	07	74		449/3/1			
	71/1					449/3/2			
	71/2					463	0	17	49
	71/3					462/1			
	71/4/1	0	21	60		462/2	0	24	65
	71/4/2					462/3			
	71/5								
	72/1	0	56	60					
	72/2/1								

ग्राम का नाम	गट/सर्वे नंबर	क्षेत्र			ग्राम का नाम	गट/सर्वे नंबर	क्षेत्र		
		हेक्टेयर	आर	चौरस मीटर			हेक्टेयर	आर	चौरस मीटर
आंबोडे—जारी	नाला	0	04	32	सातरणे—जारी	नाला	0	03	24
	486/1				ग्राम रोड-130	0	01	44	
	466/2अ	0	53	77	166	0	16	38	
	466/2ब				153	0	38	64	
	कच्चा रास्ता	0	00	46	नाला	0	00	26	
	नाला	0	01	63	154	0	11	88	
	474/1				कच्चा रास्ता	0	00	94	
	474/2अ	0	44	47	152	0	19	98	
	474/2ब				कच्चा रास्ता	0	00	47	
	474/2क				93	0	48	24	
	नाला	0	00	48	214/1अ				
	नाला	0	03	60	214/2	0	36	72	
	475/1	0	38	53	214/1ब				
	475/2				213/1	0	19	98	
	484/1				213/2				
	484/2अ	0	00	40	ओ.डी.आर.-92	0	02	52	
	484/2ब				76/1	0	14	40	
	नाला	0	00	40	76/2				
	476	0	69	62	77	0	05	48	
	नाला	0	01	42	78/1	0	20	52	
	395	0	15	59	78/2				
	नाला	0	09	36	नाला	0	01	44	
	396	0	40	04	64/1				
	397	0	21	98	64/2-1				
	398/1				64/2/1/1-1				
	398/2				64/2/2/1/2	0	44	82	
	398/3	0	43	62	64/2/2/2				
	398/4				64/2/2/1-1-2				
	398/5				64/2/2/1/1-2				
	399	0	16	93	64/2-2/1-2				
	400	0	25	25	72	0	27	90	
	ग्राम रोड-50	0	00	90	63	0	20	34	
21. सातरणे	171/1	0	37	80	कच्चा रास्ता	0	00	66	
	171/2				नाला	0	00	54	
	ग्राम रोड	0	02	16	166/1	0	37	77	
	नाला	0	00	69	166/2				
	173	0	31	86	कच्चा रास्ता	0	00	90	
	172/1	0	38	70	162/1	0	47	70	
	172/2				162/2				
	नाला	0	00	59	कच्चा रास्ता	0	00	72	
	174	0	37	43	नाला	0	04	50	
	217	0	02	70					
	216	0	20	88	130/अ-1/2	0	66	06	
	कच्चा रास्ता	0	00	45	कच्चा रास्ता	0	00	54	
	167	0	62	10	128	0	37	38	

ग्राम का नाम	गट/सर्वे नंबर	क्षेत्र		
		हेक्टेयर	आर	चौरस मीटर
मोहाडी (प्र. डांगरी)—जारी	129/1	0	09	90
	129/2			
नाला		0	01	26
125		0	44	10
नाला		0	00	90
ग्राम रोड		0	01	80
80/1				
80/2/1				
80/2/2	0	44	64	
80/2/3				
80/2/4				
81/1	0	07	74	
81/2				
83/1	0	08	46	
83/2				
78	0	12	16	
84	0	02	88	
नाला	0	00	54	
85	0	35	10	
86	0	24	48	
कच्चा रास्ता	0	00	90	
72/2	0	23	76	
73	0	25	56	
ग्राम रोड-43	0	03	09	
71	0	25	20	
70/1	0	25	38	
70/2				
60/1				
60/2अ	0	16	79	
60/2ब				
59	0	03	71	

[फा. सं. आर-31015/13/2001-ओ आर -II]

हरीश कुमार, अवर सचिव

MINISTRY OF PETROLEUM AND NATURAL GAS

New Delhi, the 21st December, 2001

S.O. 3489.—Whereas, by a notification of the Government of India in the Ministry of Petroleum and Natural Gas, number S. O. 2363 dated the 4th September 2001, issued under sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of Users in Land) Act, 1962 (50 of 1962), (hereinafter referred to as the said Act), the Central Government declared its intention to acquire the Right of User in the land, specified in the Scheduled appended to that notification for the purpose of laying pipeline for transport

of petroleum products through the Mumbai-Mannad Pipeline Extension Project from Panewadi (Mannad) in the State of Maharashtra to Manglya (Indore) in the state of Madhya Pradesh by the Bharat Petroleum Corporation Limited;

And, whereas, the copies of the said Gazette notification were made available to the public on 6th day of October, 2001;

And, whereas, the Competent Authority has, under sub-section (1) of section 6 of the said Act, submitted report to the Central Government

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 6 of the said Act, the Central Government hereby declares that the right of user in the said land specified in the Schedule is hereby acquired for laying the pipeline.

And, further, in exercise of the powers conferred by sub-section (4) of section 6 of the said Act, the Central Government directs that the right of user in the said lands shall instead of vesting in the Central Government, vest on this date of the publication of this declaration, in the Bharat Petroleum Corporation Limited, free from all encumbrances.

SCHEDULE

Tahsil : Dhule	District : Dhule	State : Maharashtra		
Name of Village	Survey/Chat No	Area		
		Hec- tares	Acre	Sq Mts
1	2	3	4	5
1 Kulthe	152/A1	0	10	00
	152/A2/2	0	10	00
	152/A2/1	0	04	50
	152/2/1	0	04	50
	152/B3/1	0	48	00
	152/B3/2	0	16	00
	152/A2/2	0	04	30
	145	0	10	91
	Cart Track	0	00	45
	144	0	48	59
	143	0	01	80
	Kanoli Nalla	0	04	42
	134/1	0	02	06
	134/2	0	02	05
	138/B3/4	0	23	78
	138/B3/3	0	24	00
	138 A	0	33	11
	Cart Track	0	00	74
	137/1	0	06	76
	137/2	0	52	45
	Road ODR-102	0	00	78
	6/11	0	47	58
	Drain	0	01	82
	7/2/1	0	04	00
	7/2/2	0	04	50
	7/1-3	0	01	50

Name of Village	Survey/Gat No.	Area			Name of Village	Survey/Gat No.	Area		
		Hec- tares	Acre	Sq. Mts.			Hec- tares	Acre	Sq. Mts.
1. Kulthe	7/1-2	0	10	00	2. Mandal	113/1	0	32	34
	7/1	0	05	47		Road VR-149	0	01	25
	Drain	0	01	21		116/1	0	20	00
	61	0	20	98		116/2	0	12	60
	60	0	00	22		116/3	0	06	88
	62/2	0	17	50		116/4	0	06	88
	62/4	0	17	50		116/5	0	06	88
	62/3	0	17	24		118 Pt.	0	28	81
	64	0	30	73		Zodga Borkund Road	0	02	12
	Cart Track	0	00	53		135	0	10	56
	72/1	0	27	84		Drain	0	04	73
	72/2					134	0	33	04
	73/1/1					Drain	0	00	51
2. Mandal	73/1/2				3. Borkund	120/1	0	03	82
	73/1/3	0	33	85		120/2	0	14	00
	73/2					120/3	0	14	00
	73/3/1					121/1	0	02	05
	73/3/2					121/2			
	73/3/3					Cart Track	0	01	14
	Drain	0	02	46		212	0	27	87
	Road, VR-124	0	00	42		211	0	21	29
	71/1					210	0	12	47
	74/2					214/1			
	74/3	0	11	69		214/2A	0	07	56
	74/4					214/2B			
	74/5					215/A/1/1	0	18	42
	Canal	0	01	06		215/A/B/1/1	0	06	70
	66	0	44	22		215/A/1/2	0	18	42
	Drain	0	00	55		215/B/1/2	0	06	70
	84	0	28	13		215/AB/1/1	0	06	70
	86	0	09	85		215/B/1F	0	05	70
	85/1	0	21	60		Bori River	0	17	42
	85/2				4. Borkund (Ratanpura)	251	0	18	00
	Drain	0	01	19		247	0	20	16
	87/1					246/1	0	01	00
	87/2	0	39	90		246/2	0	10	80
	87/3/1					Road	0	01	62
	83/A	0	11	76		245/1A			
	83/B					245/1B	0	24	66
	92	0	30	53		245/2			
	104	0	16	81		282 Pt.	0	31	86
	103	0	48	54		Road, SH-15	0	04	32
	102/11/2	0	05	00		281/2B			
	102/11/1	0	05	00		281/2C	0	16	38
	102/10	0	06	50		281/2			
	102/8	0	14	50		Cart Track	0	01	80
	102/7	0	10	99		285/2	0	50	76
	102/6/4	0	10	00					
	102/5/3	0	03	00					
	102/6/2	0	02	00					
	112/1								
	112/2	0	76	19					
	112/3								
	112/4								

Name of Village	Survey/Gat No.	Area			Name of Village	Survey/Gat No.	Area		
		Hec-tares	Acre	Sq. Mts.			Hec-tares	Acre	Sq. Mts.
4. Borkund (Ratanpura)	286	0	04	86	5. Dondvad	92/1	0	14	96
	River	0	11	70		92/2	0	15	00
	614	0	22	50		95/1A/1			
	615	0	12	60		95/1A/2			
	612/3					95/1B	0	00	14
	612/4	0	12	24		95/2			
	Road, VR-155	0	02	70		95/3			
	617	0	26	46		95/4			
	619	0	15	12		93	0	13	65
	607	0	13	75		94	0	01	17
	606/1	0	50	40	6. Vinchur Budruk	91	0	19	05
	606/2	0	50	40		80/2/A-1	0	06	80
	Cart Track	0	00	90		80/1A/1	0	55	44
	603/1					Drain	0	00	40
	604	0	07	20		81	0	00	97
	603/2					82/1A	0	05	50
	Road, ODR-105	0	04	50		82/1B	0	05	70
	628	0	33	48		82/2	0	11	21
	Drain	0	02	52		83	0	10	92
	602/1					Cart Track	0	00	41
	602/2	0	27	00		109/1/1			
	602/3					109/1/2			
	Drain	0	03	78		109/1/3	0	48	35
	629	0	17	10		109/1/4			
	580	0	25	56		97/1	0	01	04
	59/2	0	14	67		97/2A	0	01	04
	65/1	0	12	79		97/2B/1	0	02	08
	65/2	0	10	50		97/2B/2	0	02	08
	65/3	0	10	50		Canal	0	00	74
	Canal	0	00	51		98/1/1	0	02	05
	67/1	0	01	02		98/1/2	0	02	06
	67/2	0	01	86		98/2/1	0	04	00
	71/1	0	06	57		98/2/2	0	04	00
	71/2	0	06	56		100/1	0	11	00
	71/3	0	06	56		100/2	0	11	17
	71/4	0	06	56		100/3	0	11	17
	70/1	0	14	09		101/1A	0	02	75
	70/2	0	14	09		101/1B/1	0	01	60
	72/1					101/1B/2	0	01	40
	72/2/1					101/1C/1	0	01	60
	72/2/2					101/1/2	0	02	00
	72/2/3	0	12	83		101/1D	0	02	75
	72/2/3					101/1A	0	03	00
	72/2/4					Drain	0	00	75
	72/2/5					S.H. 211	0	06	39
	72/3					102/1/1A	0	09	90
	72/4					Drain	0	04	11
	72/5								
	72/6								
	Drain	0	02	86					
5. Dondvad	59/2	0	14	67					
	65/1	0	12	79					
	65/2	0	10	50					
	65/3	0	10	50					
	Canal	0	00	51					
	67/1	0	01	02					
	67/2	0	01	86					
	71/1	0	06	57					
	71/2	0	06	56					
	71/3	0	06	56					
	71/4	0	06	56					
	70/1	0	14	09					
	70/2	0	14	09					
	72/1								
	72/2/1								
	72/2/2								
	72/2/3	0	12	83					
	72/2/3								
	72/2/4								
	72/2/5								
	72/3								
	72/4								
	72/5								
	72/6								
	Drain	0	02	86					

Name of Village	Survey/Gat No	Area			Name of Village	Survey/Gat No.	Area		
		Hec- tares	Acre	Sq. Mts.			Hec- tares	Acre	Sq. Mts.
7. Shirud	Cart Track	0	00	72		46	0	29	85
	791/1	0	13	50		54/1			
	791/2					54/2	0	08	55
	790/1					54/3			
	790/2	0	19	44		Road ODR-113	0	02	51
	790/3					53/1	0	01	36
	790/4					53/2			
	789	0	47	52		65/1A			
	Cart Track	0	00	97		65/1B	0	23	83
	788/1					65/2			
	788/1B					66/1			
	788/1C	0	27	70		66/2	0	62	86
	788/2/2					66/3			
	805/1A					Drain	0	01	80
	805/1B	0	36	00		71/1			
	805/2A					71/2B	0	18	00
	805/2B					68/1A			
	Drain	0	02	70		68/1B			
	Drain	0	01	92		68/2A	0	24	00
	Drain	0	01	85		68/2B			
	772/1	0	53	10		68/2C			
	772/2					68/3			
	821	0	09	18		Drain	0	01	80
	Drain	0	02	70		70	0	18	00
	Cart Track	0	00	81		76	0	06	30
	822/1	0	15	48		78/1A	0	09	36
	822/2					78/1B			
	825/1					Cart Track	0	01	44
	825/2					906	0	16	20
	825/3					77/1			
	825/4	0	01	80		77/2	0	28	80
	825/5					77/3			
	839/1	0	34	20		130/2			
	839/2					130/3	0	31	68
	Road VR-118	0	01	80		130/4			
	838/3	0	06	30		Cart Track	0	01	44
	840/1				8. Visrane	Drain	0	01	59
	840/2	0	29	16		57/2/1	0	94	89
	840/3					57/3			
	Drain	0	00	72		Shirud Visrane Road	0	00	49
	837	0	15	96		55	0	29	72
	Railway	0	06	02		49/1	0	04	72
	Cart Track	0	01	48		49/2			
	842/1A					48/1			
	842/1B	0	16	61		48/2	0	07	75
	842/2					48/3			
	Drain	0	09	90	9. Velhane Bk	360	0	03	42
	55/1	0	35	28		326	0	68	40
	55/2					324	0	00	20
	Drain	0	00	65		327	0	00	20
	44/1					Drain	0	01	44
	44/2					323/1	0	30	60
	44/3	0	01	89		323/2			
	44/4								
	44/5								
	44/6								

Name of Village	Survey/Gata No.	Area			Name of Village	Survey/Gata No.	Area		
		Hec- tares	Are	Sq. Mts.			Hec- tares	Are	Sq. Mts.
9. Velhane BK	Drain	0	05	40	10. Tanda Kundane	Drain	0	02	52
	322/1	0	16	20		70	0	14	58
	Road, MDR-43	0	01	98		Drain	0	00	36
	293/1/1					73	0	03	96
	293/1/2	0	30	24		72/2	0	07	56
	294/1					Canal	0	03	24
	294/2	0	40	68		74/1	0	13	50
	294 Pt.					74/2			
	303/2/1					75			
	303/2/2	0	10	26		75 Pt.	0	10	26
	303/2/3					Drain	0	01	44
	303/2/4	0	10	26		109/1/1			
	Drain	0	02	70		109/1/2	0	15	30
	304/1	0	72	54		109/2			
	304/2					109/1/3			
	306/1					Drain	0	03	96
	306/2	0	29	88		108/1			
	306/3					108/2	0	03	60
	306/4					107	0	25	20
	307	0	06	48		104	0	20	70
	Cart Track	0	01	26		Drain	0	01	26
	88 Pt.	0	91	80		103	0	11	88
	Cart Track	0	00	97		102/1	0	20	52
	Cart Track	0	00	68		102/1			
	Drain	0	03	60		Drain	0	01	98
	74/1				11 Anchade	84 Pt	0	07	89
	74/2	0	14	94		84 Pt.	0	31	59
	74 Pt.					Drain	0	04	64
	Road ODR-112	0	04	50		80	0	20	88
	23	0	14	40		Drain	0	01	80
	15/1	0	30	60		Road MDR-43	0	05	40
	15/2					81/1	0	09	36
	14/1					81/2			
	14/2	0	14	40		77/1/1			
	14/3					77/1/2	0	27	89
	14/4					77/2			
	Drain	0	04	68		77/3			
	12/1	0	24	48		75	0	00	66
	12/2					74/1	0	17	82
	Drain	0	04	32		74/2			
10. Tanda Kundane	44	0	22	86		76/1			
	Cart Track	0	01	44		76/2	0	20	16
	45	0	21	96		76/3			
	46	0	16	20		76/4			
	47/1	0	05	40		71/1	0	07	34
	47/2					71/2			
	Drain	0	02	70		70/1	0	23	94
	67/1					70/2			
	67/2	0	32	56		66	0	62	10
	67/3					Drain	0	01	54
	67/4								
	68	0	15	84					

Name of Village	Survey/Gata No.	Area			Name of Village	Survey/Gata No.	Area		
		Hec- tares	Acre	Sq. Mts.			Hec- tares	Acre	Sq. Mts.
11. Anchade	57	0	04	26	15. Bhirhdane	Drain	0	00	46
	58	0	06	56		Cart Track	0	03	30
	59	0	05	02		75/1B	0	14	04
	50	0	18	55		78/1	0	36	05
	Drain	0	00	71		78/2			
	52	0	25	69	16. Mukti	Drain	0	00	85
	31	0	24	01		81	0	60	76
	Cart Track	0	00	50		224/1	0	68	66
	33/1	0	08	32		224/2			
	33/2					Drain	0	02	23
	30/1	0	01	02		231	0	11	09
	30/2					232/1	0	12	96
	29	0	36	38		233/1	0	14	22
12. Vajirkhede	Drain	0	06	63		234/1A			
	11	0	12	76		234/1C			
	Road MDR-42	0	00	76		234/1D/1A	0	39	99
	10	0	15	92		234/2			
13. Chinchkhede	Drain	0	03	79		260/1			
	48/1					260/2/2			
	48/2-1					260/2/3	0	34	56
	48/2B	0	38	96		260/2/4			
	48/3					261	0	12	06
	49/1	0	17	04		Drain	0	03	92
	49/2					Drain	0	15	22
	50/1	0	16	39		262	0	15	12
	50/2					Road, VR-23	0	02	34
	51	0	25	47	17. Kasvihir	43/1-1			
	Drain	0	00	54		43/1-2			
	Cart Track	0	01	53		43/1-3			
	61/1					43/1-4			
	61/2	0	56	16		43/1-5	0	44	83
	61/3					43/2-1			
	60	0	00	20		43/2-2			
	62/1A	0	30	43		43/2-3			
	62/1B					43/2-4			
	Road ODR-110	0	02	60		43/2-5			
	63/1	0	37	21	18. Nandale Khurd	56/1	0	24	89
	63/4					56/2			
	Cart Track	0	00	72		NH-6	0	06	30
	64/1A	0	18	18		51/1/1	0	30	90
	69	0	34	20		51/2			
	67/1A					50	0	10	67
	67/1A-2	0	31	01		49/1	0	11	18
	Drain	0	04	60		49/2			
14. Amdad	22	0	03	92		48	0	03	47
	25/1-1A					52/1			
	25/1-1B/1A					52/2	0	05	75
	25/1-1B/1B					52/3			
	25/2A-1A	1	08	00		53/1			
	25/2B					53/2	0	13	11
	25/2A/2					53/3			
	25/1-1C					37	0	22	56
	25/3					38	0	19	30
	25/2A/1B								

Name of Village	Survey/Gat a No.	Area			Name of Village	Survey/Gata No.	Area		
		Hec-tares	Acre	Sq. Mts.			Hec-tares	Acre	Sq. Mts.
19. Nagaon Khurd	40/1-1				19. Nagaon Khurd	6/1D1	0	00	99
	40/1-2	0	16	20		6/2			
	40/1/3A					6/3/1			
	40/2					Drain	0	01	80
	39	0	01	64	20. Ambode	441/1			
	29	0	35	01		441/2	0	14	04
	30/1					441/3			
	30/2	0	08	97		442	0	35	10
	30/3					449/1			
	30/4					449/2	0	46	30
	27	0	18	53		449/3/1			
	25	0	20	42		449/3/2			
	24	0	12	96		463	0	17	49
	N.H. 6 Road	0	03	96		462/1			
	23	0	07	74		462/2	0	24	65
	71/1					462/3			
	71/2					Drain	0	04	32
	71/3					466/1			
	71/4/1	0	21	60		466/2A	0	53	77
	71/4/2					466/2B			
	71/5					Car Track	0	00	46
	72/1	0	36	60		Drain	0	01	63
	72/2/1					474/1			
	Cart Track	0	00	74		474/2A	0	44	47
	77	0	32	22		474/2B			
	82/1	0	28	44		474/2C			
	82/2					Drain	0	00	48
	83/1					Drain	0	03	60
	83/2					475/1	0	38	53
	83/3/1	0	45	36		475/2			
	83/3/2					484/1			
	83/3/4					484/2A	0	00	40
	Road, VR-75	0	00	63		484/2B			
	Kanheri River	0	08	28		Drain	0	00	40
	84	0	19	80		476	0	69	62
19. Nagaon Khurd	1/1/A1					Drain	0	01	42
	1/A2					395	0	15	59
	1/A3					Drain	0	09	36
	1/C2					396	0	40	04
	1/C4					397	0	21	98
	1/B	0	35	46		398/1			
	1/C/1					398/2			
	1/D/1					398/3	0	43	62
	1/D2/B					398/4			
	1/D2/A					398/5			
	1/C-3					399	0	16	93
	1/1A2					400	0	25	25
	1/1-A3					Road, VR-50	0	00	90
	7/1				21. Satarne	171/1	0	37	80
	7/2A	0	55	80		171/2			
	7/3					Road	0	02	16
	6/1A					Drain	0	00	69
	6/1B-1								
	6/1B-1								
	6/1/C								
	6/1/D2	0	00	99					
	6/1/B2								

Name of Village	Survey/Gat No.	Area			Name of Village	Survey/Gat No	Area		
		Hec- tars	Acre	Sq. Mts.			Hec- tars	Acre	Sq. Mts.
21. Satame—Contd.	173	0	31	86	22. Mohadi (Pra Dangai)	Drain	0	00	54
	172/1	0	38	70		166/1	0	37	77
	172/2					166/2			
	Drain	0	00	59		Cart Track	0	00	90
	174	0	37	43		162/1	0	47	70
	217	0	02	70		162/2			
	216	0	20	88		Cart Track	0	00	72
	Cart Track	0	00	45		Drain	0	04	50
	167	0	62	10		130/A-1/2	0	66	06
	Drain	0	03	24		Cart Track	0	00	54
	Road, VR-130	0	01	44		128	0	37	38
	166	0	16	38		129/1	0	09	90
	153	0	38	64		129/2			
	Drain	0	00	26		Drain	0	01	26
	154	0	11	88		125	0	44	10
	Cart Track	0	00	94		Drain	0	00	90
	152	0	19	98		Mohadi Road	0	01	80
	Cart Track	0	00	47		80/1			
	93	0	48	24		80/2/1			
	214/1A					80/2/2	0	44	64
	214/2	0	36	72		80/2/3			
	214/113					80/2/4			
	213/1	0	19	98		81/1	0	07	74
	213/2					81/2			
	Road, ODR-92	0	02	52		83/1	0	08	46
	76/1	0	14	40		83/2			
	76/2					78	0	12	16
	77	0	05	48		84	0	02	88
	78/1	0	20	52		Drain	0	00	54
	78/2					85	0	35	10
	Drain	0	01	44		86	0	24	48
	64/1					Cart Track	0	00	90
	64/2-1					72/2	0	23	76
	64/2/1/1-1					73	0	25	56
	64/2/2/1/2	0	44	82		Road, VR-43	0	03	09
	64/2/2/2					71	0	25	20
	64/2/2/1-1-2					70/1	0	25	38
	64/2/2/1/1-2					70/2			
	64/2-2/1-2					60/1			
	72	0	27	90		60/2A	0	16	79
	63	0	20	34		60/2B			
	Cart Track	0	00	66		59	0	03	71
22. Mohadi (Pra Dangari)	Drain	0	00	54					
	165/1	0	59	57					
	165/2								

[F. No R-31015/13/2001-OR-II]

HARISH KUMAR, Under Secy.

नई दिल्ली, 21 दिसम्बर, 2001

का. आ. 3490.—केन्द्रीय सरकार को लोकहित में यह आवश्यक प्रतीत होता है कि महाराष्ट्र राज्य में पामेवाडी (मनमाड) संस्थापन से मध्य प्रदेश राज्य में मांगल्या (इन्दौर) तक पेट्रोलियम उत्पादों के परिवहन के लिए भारत पेट्रोलियम कारपोरेशन लिमिटेड द्वारा एक विस्तार पाइपलाइन बिछाई जानी चाहिए;

और केन्द्रीय सरकार को ऐसा प्रतीत होता है कि ऐसी पाइपलाइन बिछाने के प्रयोजन के लिए ऐसी भूमि में जो इससे उपाय्य अनुसूची में वर्णित है और जिसके भीतर उक्त पाइपलाइन बिछाए जाने का प्रस्ताव है, उसके उपयोग के अधिकार का अर्जन करना आवश्यक है;

अतः अब, केन्द्रीय सरकार पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उस भूमि में उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा करती है;

उक्त अनुसूची में वर्णित भूमि में हितबद्ध कोई व्यक्ति, उस तारीख से जिसको उस राजपत्र की प्रतियाँ, जिसमें यह अधिसूचना अंतर्बिष्ट है, आम जनता को उपलब्ध करा दिए जाने की तारीख से इक्कीस दिन के भीतर, उस भूमि के भीतर पाइपलाइन बिछाए जाने के उपयोग के अधिकार के अर्जन के संबंध में श्री बी. पी. पाठक, सक्षम प्राधिकारी, मुंबई-मनमाड पाइपलाइन विस्तार परियोजना, भारत पेट्रोलियम कारपोरेशन लिमिटेड, 26, पार्क रोड, इन्दौर-452003 (मध्य प्रदेश) को लिखित में आक्षेप कर सकेगा;

अनुसूची

तहसील : इन्दौर

जिला : इन्दौर

राज्य : मध्यप्रदेश

क्र.सं.	ग्राम का नाम	सर्वेक्षण सं.	क्षेत्रफल हेक्टर में
1.	कलारिया	327 (स. चारागाह)	0 0383
		326	0.0924
		328/1	
		328/2	0 1805
		328/3	
		329	0 0804
		347/1	0 3968
		347/2	
		348	0 0288
		346 (स. चारागाह)	0.0397
		342/1	0 0223
		342/2	
		341 (राष्ट्रीय मार्ग 59)	0.0513
		184	0.0814
		185/1	
		185/2	0.0768
		185/3	
		185/4	
		186/1	0 0812
		186/2	

क्र.सं.	ग्राम का नाम	सर्वेक्षण सं.	क्षेत्रफल
	कलारिया—जारी	182/1	0 1088
		182/2	
		180/1	
		180/2	
		180/3	
		180/4	
		180/5	0.3967
		180/6	
		180/7	
		180/8	
		88/379	0.0030
		88/378	0.0309
		88	0 1897
		87/1/1	
		87/1/2	0 2112
		87/1/3	
		87/2	
		91	0 0361
		90/1	0.2788
		90/2	
		96, 97, 98 (सभी उप मंडल सं.)	0 1055
		102 (स. रास्ता)	0.0315
		109/1	0 0800
		109/2	
		109/3	
		108	0.1704
		107 (स. चारागाह)	0 0151
		106/1	0.6727
		103/1	0 0400
		103/2	
2.	धरनाबद	229 (स. चारागाह)	0 0400
		228/1	0 0400
		228/2	
		107	0.1200
		218	0.1211
		216	0.0792
		219/2	0.0720
		219/1	0 3528
		220/2/2	0 3464

क्र.सं. ग्राम का नाम	सर्वेक्षण सं.	क्षेत्रफल	क्र.सं. ग्राम का नाम	सर्वेक्षण सं.	क्षेत्रफल
धरनावद—जारी	197/1	0.2124	सावलिवा खेड़ी—जारी	128/1	0.2710
	197/2			128/2	
	197/3			124/1	0.1830
	197/4			124/2	
	209	0.2016		119	0.0020
	208	0.0216		118/1, 116/1	0.2111
	199/1	0.0180		118/2, 116/2	
	199/2			120/1	0.0798
	200	0.0720		120/2	
	202/2	0.0108		117/1/1	0/1184
	201 (स. रास्ता)	0.0324		117/1/2	
	198 (स. बाला)	0.0046		117/2	
	190/1	0.0899		114/1	0.2768
	190/2	0.1050		114/2	
	189	0.3380		114/3	
	179 (स. बाला)	0.0360		114/4	
	178/2	0.0655		114/5	
	172/2/1	0.0864		115	0.0144
	177 (स. चरागाह)	0.0180	4. पिपलिया तफा	110/1	0.5148
	172/2/2	0.0668		110/2	
	172/2/3	0.0695		110/3	
	172/2/4	0.0535		110/4	
	172/2/5	0.2424		104	0.0876
	173/1	0.2431		99/1	0.1793
	174	0.0216		99/2	
	172/3	0.0108		99/3	
3. सावलिवा खेड़ी	161(स. चरागाह)	0.0136		97	0.0207
	159/1	0.0100		100 (स. बाला)	0.0406
	159/2				
	158	0.2800	5. रिजलाई आगीर	30	0.5183
	157(स. चरागाह)	0.0972		29	0.1155
	156	0.3731		28	0.1246
	151	0.2345		33	0.1276
	135	0.0808		34/1	0.6256
	134	0.0589		34/2	
	133/1	0.1964		34/3/1	
	133/2			34/3/2	
	133/3			34/4	
	131/1			34/5/1	
	131/2			34/5/2	
	131/3	0.2955			
	131/4				

क्र.सं. ग्राम का नाम	सर्वेक्षण सं.	क्षेत्रफल	क्र.सं. ग्राम का नाम	सर्वेक्षण सं.	क्षेत्रफल
रिजलाई जागीर—जारी	1	0.0857	जम्बूड़ी सप्ती—जारी	553/2	
	211, 210 (स. रास्ता)	0.0140		554/1	
	205/1			554/2/1	0.1696
	205/2	0.1260		554/2/2	
	205/3			550/1	0.1035
	204	0.2140		550/2	
	10	0.0476		551/1	
	70(स. बाला)	0.0344		551/2	0.0010
	102/1/1			551/3	
	102/1/2	0.8339		162/1	0.0504
	102/2			162/2, 163/1/1	
	102/3, 103, 104,			161	0.3017
	105, 106			160/1	0.1370
	109	0.1102		160/2	
	101	0.1131		160/3	
	100	0.1001		160/4	
	21	0.2423		164	0.1476
	24	0.1921		165/1/1	
	25	0.0846		165/1/2	0.3001
	26	0.0576		165/2	
	31	0.2450		165/3	
6. जम्बूड़ी सप्ती	399	0.0464		169/1/1	
	596/1/1			169/2/	0.4680
	596/1/2			169/2/1	
	596/1/3	0.2599		169/2/3	
	596/2/1			153/1/1	0.3260
	596/2/2			153/1/2	
	586	0.4133		153/2	
	584	0.3336		141/1/1	
	583/3/1	0.1180		141/1/2	
	583/3/2			141/2/1	
	582(स. चरा. एवं रास्ता)	0.0498		141/2/2	0.6872
	570/1	0.3312		141/3/1	
	570/2			141/3/2	
	571/1	0.2592		141/3/3	
	571/2			120	0.0172
	572/1/1			106(स. चरा. एवं रास्ता)	0.1388
	572/1/2	0.1431			
	572/2		7. बुढ़ानिया	170/1	
	553/1/1	0.3708		170/2	0.3797
	553/1/2			170/3	

क्र.सं. ग्राम का नाम	सर्वेक्षण सं.	क्षेत्रफल	क्र.सं. ग्राम का नाम	सर्वेक्षण सं.	क्षेत्रफल
बुढ़ानिया—जारी	171 (सड़क)	0 0531	पालाखेड़ी—जारी	85/1, 2 (स. रास्ता)	0 1510
	172/1	0 2277		108	0 0065
	172/2			87/1/1	0.3113
	172/3			86/1	0.0022
	173/1	0.1634		86/2	0 2118
	175	0 5842		87/1/2	0 2385
	409/1	0.0064		72/2	0 0227
	397	0.1608		87/1/3/1	0.0036
	396/1	0.2056		73/1/1	0.0251
	396/2			71/1/1/क	0.1095
	387	0.1843		21/5	0.2830
	385/1	0.2197		71/1/1/ख	0.0684
	384	0.0365		21/6	0.0020
	362	0.0101		71/1, 71/2/क	0.0303
	52(स. रास्ता)	0.0133		21/4	0.1220
	345	0.0254		64	0 1271
	346/1	0 2702		22/5	0.1055
	346/2			61	0.0502
	347/1	0 1979		23	0 2614
	347/2	0.0398		60/1	0.0088
	349	0.2356		34/1/1/2	0 0180
	348	0 2328		34/1/1/1	0.2722
	340/1	0.1794		31	0 0546
	340/2	0.1866		25/1/1	0 0344
	340/3	0 1461		30	0 0010
	338	0.0032		29/2	0.1323
	340/5	0.0302		179/1	0.0115
	333/2, 334/2	0.3886		178/2	0.1056
	323(स. चरागाह)	0 0373		176	0.1290
8. पालाखेड़ी	1	0 0300		181 (स. नाला)	0.0220
	91	0 3157		186	0.0280
	90/3/3	0 0311		185	0.1179
	90/2/2	0 1259		184/2/2	0 3034
	90/2/1	0.1251		183	0 1330
	90/1/2	0 1431		182/2, 275	0.0704
	90/1/3	0 0710		182/3	
	89	0 4619		276	0.1290
	88/1			277(स. नाला)	0 0152
	88/2	0.1180		278	0 2030
			9. लिम्बोदागरी	193/1, 188/2	0 0108
				192(स. चरागाह)	0.1965

क्र.सं. ग्राम का नाम	सर्वेक्षण सं.	क्षेत्रफल
लिम्बादागारी—जारी	438/1	
	438/2	0 2906
	438/3	
	458	0.2617
	457/2	0.0253
	456/1/2	0.0743
	456/1/1	0.2134
	456/2	0.0244
	453	0.0426
	454/2	0.3402
	454/1	0.0112
	452/2	0.0777
	461/4	0 0158
	451	0 2262
	463	0.3191
	466/1	0.4825
	468/1	0.3393
	468/2	
	476/3/4	0.1161
	476/3/3	
	410/1	0 2043
	410/2	
	409 (स. रेलवे)	0.0549
	403	0 0612
	402	0 0920
	400	0.2129
	390 (स. चरागाह)	0 0321
	394	0 2917
	393	0 0135
	390 (स. चरागाह)	0 1316
	388	0 0200
	389	0 2519
	382 2, 383 2 2	0 0695
	381	0 4587
	380 2 2	0 0011
	391 (स. चरागाह)	0 1407
10. सक्कर खंडी	1	0 0396
	2 1	0 0396
	65	0 0168

[फा. सं. आर-31015/25/2001-ओ आर-II]

हरीश कुमार, अवर सचिव

New Delhi, the 21st December, 2001

S. O. 3490.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transport of petroleum products from the Panewadi (Manmad) terminal in the State of Maharashtra, an extension pipeline to Manglya (Indore) in the State of Madhya Pradesh should be laid by Bharat Petroleum Corporation Limited;

And whereas, it appears to the Central Government that for the purpose of laying such pipeline, it is necessary to acquire the right of user of land under which the said pipeline is proposed to be laid and which is described in the Schedule annexed hereto;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the rights of user therein;

Any person, interested in the land described in the said Schedule may, within twenty one days from the date on which copies of the Gazette of India containing this notification are made available to the public, object in writing to the acquisition of the right of user therein for laying of the pipeline under the land to Shri V P Pathak, Competent Authority, Mumbai-Manmad Pipeline Extension Project, Bharat Petroleum Corporation Limited, 26, Park Road, Indore-452003 (Madhya Pradesh)

SCHEDULE

Tehsil Indore District Indore State : Madhya Pradesh

Name of Village	Survey No	Area in Hectare
1. Kalariya	327(GI.)	0.0383
	326	0.0924
	328/1	
	328/2	0.1805
	328/3	
	329	0.0804
	347/1	
		0.3968
	347/2	
	348	0.0288
	346(GI.)	0.0397
	342 1	
		0.0223
	342/2	
	341(NH 59)	0 0513
	184	0 0814
	185/1	0 0768
	185/2	
	185/3	
	185/4	
	186/1	0.0812
	186/2	
	182/1	0.1088
	182/2	

Name of Village	Survey No.	Area in Hectare	Name of Village	Survey No.	Area in Hectare
Kalariya—Contd.	180/1		Dhamavad—Contd.	202/2	0.0108
	180/2			201(GCT)	0.0324
	180/3			198 (G. Drain)	0.0046
	180/4	0.3967		190/1	0.0899
	180/5			190/2	0.1050
	180/6			189	0.3380
	180/7			179 (G. Drain)	0.0360
	180/8			178/2	0.0655
	88/379	0.0030		172/2/1	0.0864
	88/378	0.0309		177(GL)	0.0180
	88	0.1897		172/2/2	0.0668
	87/1/1	0.2112		172/2/3	0.0695
	87/1/2			172/2/4	0.0535
	87/1/3			172/2/5	0.2424
	87/2			173/1	0.2431
	91	0.0361		174	0.0216
	90/1	0.2788		172/3	0.0108
	90/2		3. Savlia Khedi	161(GL)	0.0136
	96, 97, 99 (all sub divi. no.	0.1055		159/1	0.1000
	102(GCT)	0.0315		159/2	
	109/1	0.0800		158	0.2800
	109/2			157(GL)	0.0972
	109/3			156	0.3731
	108	0.1704		151	0.2345
	107(GL)	0.0151		135	0.0808
	106/1	0.6727		134	0.0589
	103/1	0.0400		133/1	0.1964
	103/2			133/2	
2. Dhamavad	229(GL)	0.0400		133/3	
	228/1	0.0400		131/1	0.2955
	228/2			131/2	
	107	0.1200		131/3	
	218	0.1211		131/4	
	216	0.0792		128/1	0.2710
	219/2	0.0720		128/2	
	219/1	0.3528		124/1	0.1830
	220/2/2	0.3464		124/2	
	197/1	0.2124		119	0.0020
	197/2			118/1, 116/1	0.2111
	197/3			118/2, 116/2	
	197/4			120/1	0.0798
	209	0.2016		120/2	
	208	0.0216		117/1/1	0.1184
	199/1	0.0180		117/1/2	
	199/2			117/2	
	200	0.0720			

Name of Village	Survey No.	Area in Hectare	Name of Village	Survey No.	Area in Hectare
Savli Khedi—Contd.	114/1		6. Jamburdi-Hapsi	399	0.0464
	114/2			596/1/1	
	114/3	0.2768		596/1/2	
	114/4			596/1/3	0.2599
	114/5			596/2/1	
	115	0.0144		596/2/2	
4. Pipliya Tafa	110/1			586	0.4133
	110/2	0.5148		584	0.3336
	110/3			583/3/1	0.1180
	110/4			583/3/2	
	104	0.0876		582(GL & OCT)	0.0498
	99/1	0.1793		570/1	0.3312
	99/2			570/2	
	99/3			571/1	0.2592
	97	0.0207		571/2	
	100(G. Drain)	0.0406		572/1/1	0.1431
5. Rinja Jagir	30	0.5183		572/1/2	
	29	0.1155		572/2	
	28	0.1246		553/1/1	0.3708
	33	0.1276		553/1/2	
	34/1			553/2	
	34/2			554/1	
	34/3/1	0.6256		554/2/1	0.1696
	34/3/2			554/2/2	
	34/4			550/1	0.1035
	34/5/1	from previous page		550/2	
	34/5/2			551/1	
	1	0.0857		551/2	0.0010
	211, 210 (OCT)	0.0140		551/3	
	205/1			162/1	0.0504
	205/2	0.1260		162/2, 163/1/1	
	205/3			161	0.3017
	204	0.2140		160/1	
	10	0.0476		160/2	
	70(G. Drain)	0.0344		160/3	0.1370
	102/1/1			160/4	
	102/1/2	0.8339		164	0.1476
	102/2			165/1/1	
	102/3, 103, 104, 105, 106			165/1/2	0.3001
	109	0.1102		165/2	
	101	0.1131		165/3	
	100	0.1001		169/1/1	
	21	0.2423		169/2/	0.4680
	24	0.1921		169/2/1	
	25	0.0846		169/2/3	
	26	0.0576			
	31	0.2450			

Name of Village	Survey No.	Area in Hectare	Name of Village	Survey No.	Area in Hectare
Jamburdi-Hapsi—Contd.	153/1/1		8 Palakhedi	1	0.0300
	153/1/2	0.3260		91	0.3157
	153/2			90/3/3	0.0311
	141/1/1			90/2/2	0.1259
	141/1/2			90/2/1	0.1251
	141/2/1			90/1/2	0.1431
	141/2/2	0.6872		90/1/3	0.0710
	141/3/1			89	0.4619
	141/3/2			88/1	0.1180
	141/3/3			88/2	
	120	0.0172		85/1, 2 (GCT)	0.1510
	106(GL&GCT)	0.1388		108	0.0065
7. Budhaniya	170/1			87/1/1	0.3113
	170/2	0.3797		86/1	0.0022
	170/3			86/2	0.2118
	171 (Road)	0.0531		87/1/2	0.2385
	172/1	0.2277		72/2	0.0227
	172/2			87/1/3/1	0.0036
	172/3			73/1/1	0.0251
	173/1	0.1634		71/1/1/K	0.1095
	175	0.5842		21/5	0.2830
	409/1	0.0064		71/1/1KII	0.0684
	397	0.1608		21/6	0.0020
	396/1	0.2056		71/1, 71/2K	0.0303
	396/2			21/4	0.1220
	387	0.1843		64	0.1271
	385/1	0.2197		22/5	0.1055
	384	0.0365		61	0.0502
	362	0.0101		23	0.2614
	52(GCT)	0.0133		60/1	0.0088
	345	0.0254		34/1/1/2	0.0180
	346/1	0.2702		34/1/1/1	0.2722
	346/2			31	0.0546
	347/1	0.1979		25/2/1	0.0344
	347/2	0.0398		30	0.0010
	349	0.2356		29/2	0.1323
	348	0.2528		179/1	0.0115
	340/1	0.1794		178/2	0.1056
	340/2	0.1866		176	0.1290
	340/3	0.1461		181 (G. Drain)	0.0220
	338	0.0032		186	0.0280
	340/5	0.0302		185	0.1179
	333/2, 334/2	0.3886		184/2/2	0.3034
	323(GL)	0.0373		183	0.1330
				182/2, 275	0.0704
				182/3	
				276	0.1290
				277(G. Drain)	0.0152
				278	0.2030

Name of Village	Survey No	Area in Hectare
9. Limbodagari	193/1, 188/2	0 0108
	192 (GL)	0 1965
	438/1	
	438/2	0.2906
	438/3	
	458	0 2617
	457/2	0.0253
	456/1/2	0 0743
	456/1/1	0 2134
	456/2	0.0244
	453	0 0426
	454/2	0 3402
	454/1	0 0112
	452/2	0.0777
	461/4	0 0158
	451	0.2262
	463	0 3191
	466/1	0 4825
	468/1	0 3393
	468/2	
	476/3/4	0 1161
	476/3/3	
	410/1	0 2043
	410/2	
	409 (Rly Line, MG)	0 0549
	403	0.0612
	402	0 0920
	400	0.2129
	390 (GL)	0 0321
	394	0 2917
	393	0 0135
	390 (GL)	0 1316
	388	0.0200
	389	0 2519
	382/2, 383/2/2	0 0695
	381	0 4587
	380/2/2	0 0011
	391 (GL)	0.1407
10 Sakarkhedu	1	0 0396
	2/1	0 0396
	65	0 0168

[F No R-31015/25/2001-OR-II]

HARISIL KUMAR, Under Secy.

नई दिल्ली, 21 दिसम्बर, 2001

का. आ. 3491.—केन्द्रीय सरकार को लोकहित में यह आवश्यक प्रतीत होता है कि महागण्डू राज्य में पानेवाड़ी (मनमाड) संस्थापन से मध्य प्रदेश राज्य में मांगल्या (इन्दौर) तक पेट्रोलियम उत्पादों के परिवहन के लिए भारत पेट्रोलियम कारपोरेशन लिमिटेड द्वारा एक बिस्तर पाइपलाइन बिछाई जानी चाहिए;

और केन्द्रीय सरकार को ऐसा प्रतीत होता है कि ऐसी पाइपलाइन बिछाने के प्रयोजन के लिए ऐसी भूमि में जो इससे उपायद्ध अनुसूची में वर्णित है और जिसके भीतर उक्त पाइपलाइन बिछाए जाने का प्रस्ताव है, उसके उपयोग के अधिकार का अर्जन करना आवश्यक है;

अतः अब, केन्द्रीय सरकार पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए उसमें उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा करती है;

उक्त अनुसूची में वर्णित भूमि में हितवद्ध कोई व्यक्ति, उस तारीख से जिसको उस राजपत्र की प्रतियां, जिसमें यह अधिसूचना अंतर्विष्ट है, आम जनता को उपलब्ध करा दिए जाने की तारीख से इसकीस दिन के भीतर, उस भूमि के भीतर पाइपलाइन बिछाए जाने के उपयोग के अधिकार के अर्जन के संबंध में श्री सी. पी. पाठक, सक्षम प्राधिकारी, मुंबई-मनमाड पाइपलाइन बिस्तर परियोजना, भारत पेट्रोलियम कारपोरेशन लिमिटेड, 26, पार्क रोड, इन्दौर-452003 (मध्य प्रदेश) को लिखित में आक्षेप कर सकेगा;

अनुसूची

तहसील : ठीकरी जिला : बड़वानी राज्य : मध्यप्रदेश

क्र. सं.	ग्राम का नाम	सर्वेक्षण सं.	क्षेत्रफल
1.	जरवाया	186/3	0 1383
		190 (सड़क)	0.0377
		217	0 1454
		222 (स. चामगाह)	0.0685
		220	0.0324
		208 (बाराड़ नदी)	0.0954
		36	0 6688
		33/2	0.0722
		32/1	0 0760
		31	0 2166
2.	खेड़ी	29	0 2128
		28/5	0 1140
		28/4	0 1026
		25	0 0114
		24/1	
		24/3	0 3646
		24/4	
		24/5	
		24/6	
		24/2 (नहर)	0.0304

क्र.सं. ग्राम का नाम	सर्वेक्षण सं.	क्षेत्रफल	क्र.सं. ग्राम का नाम	सर्वेक्षण सं.	क्षेत्रफल
3. ठीकरी	12/1		सेगवाल (बालू)	280 (स. चरागाह)	0.2232
	12/2	0.1808		281/1	0.1440
	12/3			281/2	
	6/2	0.0344		282/1	0.1872
	6/3	0.0793		282/	
	6/4	0.0316		287/3	0.0648
	7	0.2700		284/2 क	
	8	0.2132		284/2 ख	0.1440
	3	0.0282		284/1 क	
	4	0.1296		284/1ख	
4. शेरपुरा	36/2	0.3290		286/1,286/2	0.2260
	36/3/2	0.0845		307/1/2	0.0720
	36/3/1	0.2305		342/1	0.2088
	36/1	0.2950		342/2	
	39 (स. बाला)	0.0543		349 (तालाब)	0.1116
	40,42	0.0232		350 (स. बाला)	0.0144
	41	0.4176		347/1	0.2160
	30/2	0.3748		346	0.0288
	27/1			360	0.1296
	27/2	0.2792		359 (तालाब)	0.0216
	27/3			358 (तालाब)	0.0216
	26	0.0512		341 (तालाब)	0.0216
	28	0.1584		361/1	
	261 (स. बाला)	0.0830		361/2	0.0705
	262	0.1512		361/3	
5. सेगवाल	263/1	0.1080		340 (तालाब)	0.0760
	264/1	0.0960		368/1	0.2376
	249/1/2	0.0288		368/2	
	263/2,264/2 (नहर)	0.0216		337/1	0.0376
	265	0.3816		337/2	
	266 (स. चरागाह)	0.1008		335	0.0936
	267 (सड़क)	0.0216		334	0.1080
	268 (सड़क)	0.0216		336/1 (तालाब)	0.1008
	269 (सड़क)	0.0216		336/2	
	272/1 (स. भूमि)	0.4320		323/4	0.4392
	272/2 (स. भूमि)	0.0216		323/3	
				323/2	

क्र.सं. ग्राम का नाम	सर्वेक्षण सं.	क्षेत्रफल	क्र.सं. ग्राम का नाम	सर्वेक्षण सं.	क्षेत्रफल
6. सिरसाला	206	0.1913	खुरमपुरा—जारी	11/1/1/1/1/1	
	205(स. नाला)	0.0144		11/1/1/1/1/2	
	204	0.1301		11/1/1/1/1/3	
	203	0.1605		11/1/1/1/1/2	
	202(स. चारागाह)	0.1585		11/1/1/1/3	
	179/1			11/1/4	
	179/2	0.0684		11/1/1/1/1/5	
	179/3			11/1/1/1/1/6	1.1570
	188	0.4983		11/1/1/1/1/7	
	189	0.0217		11/1/1/1/2	
	190	0.0450		11/1/2	
	124,125,126	0.3344		11/1/1/3	
	114/1/5	0.0015		11/1/1/5	
	114/1/4	0.0408		11/1/1/6	
	114/1/3	0.0680		11/1/1/7	
	114/1/2	0.0681		11/1/1/8	
	114/1/1	0.0804		11/1/1/2	
	114/2 (तालाब)	0.1130		11/2	
	113 (राष्ट्रीय राजमार्ग)	0.0210		5	0.1396
	112 (राष्ट्रीय राजमार्ग)	0.0203		10	0.1008
	111 (राष्ट्रीय राजमार्ग)	0.0645		12	0.1440
	109 (तालाब)	0.0390		13	0.0395
	108'2 (स. नाला)	0.1018		14	0.3449
	107'2 (तालाब)	0.1129		1 (स. चारागाह)	0.2277
	106'2 (तालाब)	0.1480		15,15/234 15/235	0.3648
	91'2 (तालाब)	0.0216		16/1/1 (स. चारागाह)	0.2707
	90 (तालाब)	0.1440		16/225	0.3072
	89 (तालाब)	0.0864		28	0.0180
	86'1 (तालाब)	0.3571		29,16/1/2	0.0648
	86'2 (तालाब)	0.0473		30,16/1/3	0.0684
	85'1 (तालाब)	0.0324		37	0.0324
	84'2 (तालाब)	0.2209		38	0.0425
	83'1 (तालाब)	0.4096		50	0.0145
7 खुरमपुरा	6 (आयादी)	0.0684		51/1/1	
	9	0.0224		51/1	
	7	0.2490		51/2	0.5401
				51/2/1	
				51/3/1	
				52	0.2654
				3	0.0576

क्र.सं. ग्राम का नाम	सर्वेक्षण सं.	क्षेत्रफल	क्र.सं. ग्राम का नाम	सर्वेक्षण सं.	क्षेत्रफल
8 टेमला	332	0 4464	बरसलाख—जारी	319	0.1999
	348	0.0137		317	0 3672
	324	0.0720		316/1	
	323	0 0864		316/2	0.1663
	315,316,318	0.7252		316/3	
	344,343	0 7938		84/1	0 0357
	333(स. चरागाह)	0.0188		84/2	
	345/1,345/2,	0.1512		86/1	0 1499
	345/3			86/2	
	314,320	0 1836		85 (स. रास्ता)	0.0214
	327,328,322	0 6336		90	0 0499
	340/1(स. चरागाह)	0.5128		118,119 सभी उपमंडल	1.2309
	164	0 0140		सं., 121/2/1	
	339	0.1404		134/1/1	0.0713
	338	0.1440		134/1/2	
	335,329 (स. नाला)	0 0648		134/2	
	334	0.0927		134/3	
9 धुलानिया	2	0 0849		143/3/1	0 3326
	1.1 से 1.6(तथा	0 6326		143/2/3	
	शमिल नं.)			143/4/1	
	5.1,5 2	0 1301		143/4/2	
10. बरसलाख	368	0 0071		144/1 से 144/11	0 2784
	348	0 4573		172/1	0.3950
	346/10/1			172/2	
	346/5			173	0 3672
	346/6			171/1	0.0535
	346/7	0 5197		171/2	
	346/8			199	0 1570
	346/9			200	0 0450
	346/10/2			201-2,202	0 1178
	345	0.5959		203	0 0107
	342,339	0 0357		204	0 0554
	338/1 क.			205/1,205/2,2	0 7414
	338/2	0 3500		205/2/1	
	338/1 ख. 338/2			248	0 0762
	338/1 ग			247/1-1(स. नाला)	0 0214
	337	0 0370		246	0.5783
	333/1	0 1663		247/1-1/2	0 0107
	333/2			225/1	0 6068
	334/1	0 1593		225/2,230/2	
	334/2			225/3	
	332	0 0178		230/3	0 5069
	320/1			230/6/2	
	320/2/5			230/9	
	320/3 क			230/1-1/4	0.1285
	320/3 ख			230/1/1	
	320/3 ग	0 4469		231	
	320/4				
	320/5				
	320/6				
	320/7				

[फा सं. आर-31015/34/2001-ओ.आर-11]

हरीश कुमार अवर सचिव

New Delhi, the 21st December, 2001

S. O. 3491.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transport of Petroleum products from the Panewadi (Manmad) terminal in the State of Maharashtra, an extension pipeline to Manglya (Indore) in the State of Madhya Pradesh should be laid by Bharat Petroleum Corporation Limited ;

And whereas it appears to the Central Government that for the purpose of laying such pipeline, it is necessary to acquire the right of user of land under which the said pipeline is proposed to be laid and which is described in the Schedule annexed hereto ;

Now, therefore, in exercise of the powers conferred by Sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein ;

Any person, interested in the land described in the said Schedule may, within twenty one days from the date on which copies of the Gazette of India containing this notification are made available to the public, object in writing to the acquisition of the right of user therein for laying of the pipeline under the land to Shri V. P. Pathak, Competent Authority, Mumbai, Manmad Pipeline Extension Project, Bharat Petroleum Corporation Limited 26, Park Road, Indore-452003 (Madhya Pradesh).

SCHEDULE

Tehsil : Thikri District : Badwani State : Madhya Pradesh

Name of Village	Survey No.	Area in Hectare
1. Jarvaya	186/3	0.1383
	190(Road)	0.0377
	217	0.1454
	222(GL)	0.0685
	220	0.0324
	208(Borad River)	0.0954
2. Khedi	36	0.6688
	33/2	0.0722
	32/1	0.0760
	31	0.2166
	29	0.2128
	28/5	0.1140
	28/4	0.1026
	25	0.0114
	24/1	
	24/3	
	24/4	0.3646
	24/5	
	24/6	
3. Thikri	24/2 (Canal)	0.0304
	12/1	
	12/2	0.1808
	12/3	

Name of Village	Survey No	Area in Hectare
Tikri—Contd	6/2	0.0344
	6/3	0.0793
	6/4	0.0316
	7	0.2700
	8	0.2132
	3	0.0282
	4	0.1296
4. Sherpura	36/2	0.3290
	36/3/2	0.0845
	36/3/1	0.2305
	36/1	0.2950
	39 (G. Drain)	0.0543
	40,42	0.0232
	41	0.4176
	30/2	0.3748
	27/1	
	27/2	0.2792
5. Segwal	27/3	
	26	0.0512
	28	0.1584
	261 (G. Drain)	0.0830
	262	0.1512
	263/1	0.1080
	264/1	0.0960
	249/1/2	0.0288
	263/2,264/2(Canal)	0.0216
	265	0.3816
	266(GL)	0.1008
	267(Road)	0.0216
	268(Road)	0.0216
	269(Road)	0.0216
	272/1(GL)	0.4320
	272/2(GL)	0.0216
	280(GL)	0.2232
	281/1	
	282/2	0.1440
	282/1	0.1872
	282/2	
	287/3	0.0648
	284/2 K	
	284/2 KH	0.1440
	284/1 K	
	284/1KH	
	286/1, 286/2	0.2260
	307/1/2	0.0720

Name of Village	Survey No.	Area in Hectare	Name of Village	Survey No.	Area in Hectare
Segwal—Contd.	342/1	0.2088	Sirsala—Contd.	114/2(Pond)	0.1130
	342/2			113(National Highway)	0.0210
	349(Pond)	0.1116		112(National Highway)	0.0203
	350(G.Drain)	0.0144		111 (National Highway)	0.0645
	347/1	0.2160		109 (Pond)	0.0390
	346	0.0288		108/2(G. Drain)	0.1018
	360	0.1296		107/2(Pond)	0.1129
	359(Pond)	0.0216		106/2(Pond))	0.1480
	358(Pond)	0.0216		91/2(Pond)	0.0216
	341(Pond)	0.0216		90(Pond)	0.1440
	361/1			89(Pond)	0.0864
	361/2	0.0705		86/1(Pond)	0.3571
	361/3			86/2(Pond)	0.0473
	340 (Pond)	0.0760		85/1(Pond)	0.0324
	368/1	0.2376		84/2(Pond)	0.2209
	368/2			83/1(Pond)	0.4096
	337/1	0.0576	7 Khurampura	6 (Abadi)	0.0684
	337/2			9	0.0224
	335	0.0936		7	0.2490
	334	0.1080		11/1/1/1/1/1	
	336/1(Pond)	0.1008		11/1/1/1/1/1/2	
	336/2			11/1/1/1/1/1/3	
	323/4	0.4392		11/1/1/1/1/2	
	323/3			11/1/1/1/3	
	323/2			11/1/4	
				11/1/1/1/5	
				11/1/1/1/6	
				11/1/1/1/7	
				11/1/1/2	
				11/1/2	1.1570
				11/1/1/3	
				11/1/1/5	
				11/1/1/6	
				11/1/1/7	
				11/1/1/8	
				11/1/1/2	
				11/2	
				5	0.1396
				10	0.1008
				12	0.1440
				13	0.0395
				14	0.3449
6. Sirsala	206	0.1913			
	205(G. Drain)	0.0144			
	204	0.1301			
	203	0.1605			
	202(Gl.)	0.1585			
	179/1	0.0684			
	179/2				
	179/3				
	188	0.4983			
	189	0.0217			
	190	0.0450			
	124,125,126	0.3344			
	114/1/5	0.0015			
	114/1/4	0.0408			
	114/1/3	0.0680			
	114/2	0.0681			
	114/1	0.0804			

Name of Village	Survey No.	Area in Hectare	Name of Village	Survey No.	Area in Hectare
Khurampura —Contd.	1(GL)	0.2277	Barsalay —Contd.	320/1	
	15,15/234.15/235	0.3648		320/2/5	
	16/1/1(GL)	0.2707		320/3 K	
	16/225	0.3072		320/3 KH	
	28	0.0180		320/3 G	0.4469
	29.16/1/2	0.0648		320/4	
	30.16/1/3	0.0684		320/5	
	37	0.0324		320/6	
	38	0.0425		320/7	
	50	0.0145		319	0.1999
	51/1/1	0.5401		317	0.3672
	51/1			316/1	
	51/2			316/2	0.1663
	51/2/1			316/3	
	51/3/1			84/1	0.0357
	52	0.2054		84/2	
	3	0.0576		86/1	
8 Lemla	332	0.1464		86/2	0.1499
	348	0.0137		85 (GCT)	0.0214
	324	0.0720		90	0.0499
	323	0.0864		118,119 Sub Div No	
	315,316,318	0.7252		121/2/1	1.2309
	344,343	0.7938		134/1/1	
	333(GL)	0.0188		134/1/2	
	345 1,345 2,345/3	0.1512		134/2	0.0713
	314,320	0.1836		134/3	
	327,328,322	0.6336		143/3/1	
	340 1(GL)	0.5128		143/2/3	0.3326
	164	0.0140		143/4/1	
	339	0.1404		143/2	
	338	0.1440		144/1 To 144/11	0.2784
	335,329 (G DRAIN)	0.0648		172/1	
	334	0.0927		172/2	0.3950
9 Dhulaniva	2	0.0849		173	0.3672
	1 1 10 1 6 & (Jnt. No)	0.6326		171/1	
	5 1,5 2	0.1301		171/2	0.0535
10 Barsalay	368	0.0071		199	0.1570
	348	0.4573		200	0.0450
	346 10 1	0.5197		201 2,202	0.1178
	346 5			203	0.0107
	346 6			204	0.0554
	346 7			205/1/1,	
	346 8			205/2/2	
	346 9			205/2/1	0.7414
	346 10 2			248	0.0762
	345	0.5959		247/1/1/1(G Drain)	0.0214
	342,339	0.0357		246	0.5783
	338 1 IK, 338 1 2	0.3500		247/1/1/2	0.0107
	338 1 IKII, 338 2			225/1	
	338 1 IG			225/2,230/2	0.6068
	337	0.0370		225/3	
	333 1	0.1663		230/3	
	333 2			230/6/2	
	334 1	0.1593		230/9	0.1285
	334 2			230/1/1/4	
	332	0.0178		230/1/1	
				231	0.5069

[F No. R-31015/34-2001-OR-II]

HARISH KUMAR, Under Secy.

नई दिल्ली, 21 दिसंबर, 2001

का.आ. 3492.—केन्द्रीय सरकार को लोकहित में यह आवश्यक प्रतीत होता है कि महाराष्ट्र राज्य में पानेवाडी (मनमाड) संस्थापन से मध्यप्रदेश राज्य में मांगल्या (इंदौर) तक पेट्रोलियम उत्पादों के परिवहन के लिए भारत पेट्रोलियम कारपोरेशन लिमिटेड द्वारा एक विस्तार पाइपलाईन बिछाई जानी चाहिए;

और केन्द्रीय सरकार को उक्त पाइपलाईन बिछाने के प्रयोजन के लिए यह आवश्यक प्रतीत होता है कि उस भूमि में जो इससे उपायुक्त अनुसूची में वर्णित है और जिसमें पाइपलाईन बिछाए जाने का प्रस्ताव है, उपयोग के अधिकार का अर्जन किया जाए;

अतः अब, केन्द्रीय सरकार, पेट्रोलियम और खनिज पाइप लाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उनमें उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा करती है;

कोई व्यक्ति, जो उक्त अनुसूची में वर्णित भूमि में हितबद्ध है, इस अधिसूचना से युक्त भारत के राजपत्र की प्रतियां साधारण जनता को उपलब्ध करा दिए जाने की तारीख से इक्कीस दिन के भीतर, उसमें या भूमि के भीतर पाइपलाइन बिछाए जाने के लिए उपयोग के अधिकार का अर्जन के लिए सक्षम प्राधिकारी, श्री व्ही. पी. पाठक, मुंबई-मनमाड पाइपलाइन विस्तार परियोजना, भारत पेट्रोलियम कारपोरेशन लिमिटेड, 26, पार्क रोड, इंदौर-452003 (मध्यप्रदेश) को लिखित रूप में आक्षेप भेज सकेगा;

अनुसूची

तेहसील : धार जिला : धार राज्य : मध्यप्रदेश

ग्राम का नाम	सर्वे नंबर	क्षेत्रफल	हेक्टेयर
1. सोरडयापुरा	148/1	0.2418	
	148/2		
	145	0.0071	
	141	0.0693	
	144	0.0940	
	153	0.1970	
	154	0.0850	
	155	0.2037	
	156	0.1006	
	157	0.1593	
	139 (स. रास्ता)	0.0424	
	138	0.0232	
	134	0.0814	
	133	0.0673	
	132	0.0591	
	128	0.0016	
	131/1	0.1195	
	131/2	0.0444	
	129/1	0.3034	
	129/2		

ग्राम का नाम	सर्वे नंबर	क्षेत्रफल	हेक्टेयर
	130		0.0003
2. गल्लामहुडी	45(स. चारागाह)		0.0570
	46		0.1996
	48 स. भूमि (प्र. वन.)		0.3065
	13		0.0998
	12		0.2851
3. परिघाटी	27 (नदी)		0.0100
	28 (नदी)		0.0600
	26/1		0.1400
	26/2		
	21/1		0.1922
	21/2		
पीरघाटी (निरंतर)	24		0.0883
	22 (नदी)		0.0525
	15/1 क		
	15/1 ख		0.2752
	15/1 ग		
	15/2		
	5		0.2026
	16 (स. रास्ता)		0.0071
	4/2		0.3086
	3 (स. रास्ता)		0.0272
4. अम्बापुरा	13/1		0.2439
	13/2		
	14 (स. रास्ता)		0.0731
	12 (स. नाला)		0.0072
5. अडाबरडा	28 स. भूमि (प्र. वन)		0.0360
	7		0.1764
	8		0.0089
	6/1		0.2448
	6/2		
	5		0.1601
	4		0.2952
	21 स. भूमि (प्र. वन)		0.1596
	3		0.0516
	2		0.2880
	25, 26, स. भूमि (प्र. वन)		0.2004
	1 (स. रास्ता)		0.0099
6. भूराकुआ	17/1		0.7182
	17/2		
	3 (स. रास्ता)		0.0428
	23(स. चारागाह)		0.1069
	2/1		0.2294
	2/2		
	46 स. भूमि (प्र. वन)		0.4706
	1		0.0036
7. जूनीदाल	36 (स. नाला)		0.0125
	14		0.2994
	26		0.1241
	22		0.3136

ग्राम का नाम	सर्वे नंबर	क्षेत्रफल	हैक्टेयर	ग्राम का नाम	सर्वे नंबर	क्षेत्रफल	हैक्टेयर
जूनीखाल—जारी	21	0.1925		10. कालीबेल	16 (नदी)		0.0601
	20	0.0844			19/1		0.1525
	24 (स. चरागाह)	0.0174			19/2		
	19	0.0031			20 (स. नाला)		0.0449
	30, 31 (अजनार नदी)	0.1366			21/1		0.1829
8. ढाल	75 (स. भूमि (प्र. वन)	0.0285			21/2		
	48	0.1497			24/1		0.2464
	52	0.2038			24/2		
	40	0.1525			24/3		
	53 (स. नाला)	0.0228			24/4		
	89 (स. भूमि प्र. वन)	0.0397			24/5		
	87 (स. भूमि (प्र. वन)	0.0082			24/6		
	88 (स. भूमि (प्र. वन)	0.0214			25/1		0.2484
	83 (राष्ट्रीय राजमार्ग, 3)	0.0068			25/2		
	82 (राष्ट्रीय राजमार्ग, 3)	0.0055			18		0.0503
	81 (राष्ट्रीय राजमार्ग, 3)	0.0060			17		0.1476
	80 (राष्ट्रीय राजमार्ग, 3)	0.0214			29		0.0286
9. जामनक्षिरी	37 (नदी)	0.1189			30		0.0053
	65/1	0.1925			15		0.2982
	65/2				13/1		0.1080
	66	0.2780			13/2		
	60/1	0.4063			14		0.0720
	60/2				39/1		0.0654
	58/1	0.3564			39/2		
	58/2				39/3		
	57	0.0071			39/4		
	55	0.0071			42/1		0.1558
	56	0.2067			42/2		
	77/1				41 (स. अबादी)		0.0248
	77/2	0.0143			44/1		0.1078
	77/3				44/2		
	78	0.1782			40 (स. रास्ता)		0.0055
	88 (पहाड़)	0.2566			10/1		0.1493
	83	0.1925			10/2		
	82 (पहाड़)	0.0624			9/1		0.0594
	81 (नदी)	0.0214			9/2		
	85/1				8		0.1614
	85/2				7/1		
	85/3	0.1853			7/2		0.2232
	85/4				7/3		
	85/5						
	85/6						

ग्राम का नाम	सर्वे नंबर	क्षेत्रफल हेक्टेयर
कालीबेल—जारी	46/1	0.0761
	46/2	
	46/3	
	47/1	0.0720
	47/2	
	47/3	
	47/4	
	1 (मदी)	0.0761

[फा.सं. आर-31015/36/2001-ओ आर-II]

हरीश कुमार, अवसर सचिव

New Delhi, the 21 December, 2001

S.O. 3492.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transport of Petroleum products from the Panewadi (Manmand) terminal in the State of Maharashtra, an extension pipeline to Manglya (Indore) in the State of Madhya Pradesh should be laid by Bharat Petroleum Corporation Limited;

And whereas it appears to the Central Government that for the purpose of laying such pipeline, it is necessary to acquire the right of user of land under which the said pipeline is proposed to be laid and which is described in the Schedule annexed hereto;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intension to acquire the right of user therein;

Any person, interested in the land described in the said Schedule may, within twenty one days from the date on which copies of the Gazette of India containing this notification are made available to the public, object in writing to the acquisition of the right of user therein for laying of the pipeline under the land to the Competent Authority, Shri V.P. Pathak, Mumbai-Manmad Pipeline Extension Project, Bharat Petroleum Corporation Limited, 26, Park Road, Indore-452003 (Madhya Pradesh).

SCHEDULE

Village : Dhar District : Dhar State : Madhya Pradesh

Name of Village	Survey No.	Area in Hectare
1. Sordyapura	148/1	0.2418
	148/2	
	145	0.0071

Name of Village	Survey No.	Area in Hectare
Sordyapura—Contd.	151	0.0693
	144	0.0940
	153	0.1970
	154	0.0850
	155	0.2037
	156	0.1006
	157	0.1593
	139 (GCT)	0.0424
	138	0.0232
	134	0.0814
	133	0.0673
	132	0.0591
	128	0.0016
	131/1	0.1195
2. Gallamahudi	131/2	0.0444
	129/1	0.3034
	129/2	
	130	0.0003
	45(GL)	0.0570
	46	0.1996
	48 GL (Proposed Forest)	0.3065
	13	0.0998
	12	0.2851
	27 (River)	0.0100
3. Pirghati	28 (River)	0.0600
	26/1	0.1400
	26/2	
	21/1	0.1922
	21/2	
	24	0.0883
	22(River)	0.0525
	15/1 K	0.2752
	15/1KH	
	15/1G	
4. Ambapura	15/2	
	5	0.2026
	16(GCT)	0.0071
	4/2	0.3086
	3 (GCT)	0.0272
	13/1	0.2439
	13/2	
	14 (GCT)	0.0731
	12 (G. Drain)	0.0072
	28 GL (Proposed Forest)	0.0360
5. Adabarda	7	0.1764
	8	0.0089
	6/1	0.2448
	6/2	

Name of Village	Survey No	Area in Hectare	Name of Village	Survey No	Area in Hectare
Adabarda—Contd.	5	0.1601	Jamanjhiri—Contd	77/2	
	4	0.2952		77/3	
	21 GL (Proposed Forest)	0.1596		78	0 1782
	3	0 0516		88(PAHAD)	0 2566
	2	0.2880	Jamanjhiri-(Contd.)	83	0 1925
	25, 26, GL (Proposed Forest)	0.2004		82(PAHAD)	0.0642
	1 (GCT)	0.0099		81(RIVER)	0.0214
6. Bhurakuva	17/1	0.7182		85/1	0 1853
	17/2			85/2	
	3 (GCT)	0.0428		85/3	
	23(GL)	0.1069		85/4	
	2/1	0.2294		85/5	
	2/2			85/6	
	46 GL (Proposed Forest)	0.4706	10. Kahibel	16 (RIVER)	0.0601
	1	0 0036		19/1	0.1525
7. Junidhal	36 (G Drain)	0.0125		19/2	
	14	0 2994		20 (G DRAIN)	0 0449
	26	0.1241		21/1	0.1829
	22	0.3136		21/2	
	21	0.1925		24/1	0.2464
	20	0.0844		24/2	
	24(GL)	0.0174		24/3	
	19	0.0031		24/4	
	30,31 (Ajnar River)	0.1366		24/5	
8. Dhal	75 GL (Proposed Forest)	0.0285		24/6	
	48	0 1497		25/1	0.2484
	52	0 2038		25/2	
	40	0.1525		18	0.0503
	53 (DRAIN)	0.0228		17	0.1476
	89 GL (Proposed Forest)	0.0397		29	0.0286
	87 GL (Proposed Forest)	0 0082		30	0.0053
	88 GL (Proposed Forest)	0.0214		15	0 2982
	83(NH 3)	0 0068		13/1	0.1080
	82(NH 3)	0.0055		13/2	
	81(NH 3)	0.0060		14	0.0720
	80(NH 3)	0.0214		39/1	0 0654
9. Jamanjhiri	37 (River)	0.1189		39/2	
	65/1	0 1925		39/3	
	65/2			39/4	
	66	0 2780		42/1	0.1558
	60/1	0.4063		42/2	
	60/2			41(GL, PAHADI)	0.0248
	58/1	0 3564		44/1	0 1078
	58/2			44/2	
	57	0 0071		40(GCT)	0 0055
	55	0.0071		10/1	0 1493
	56	0.2067		10/2	
	77/1	0 143		9/1	0.0594
				9/2	

Name of Village	Survey No.	Area in Hectare	ग्राम का नाम	सर्वे नं०	क्षेत्रफल हैक्टेयर
Kalibel—Contd.	8	0.1614	गुजरी—जारी	77	0.1160
	7/1	0.2232		79	0.1203
	7/2			78	0.0387
	7/3			81	0.0071
	46/1	0.0761		75	0.2918
	46/2			74	0.0071
	46/3			68 (स. रास्ता)	0.0249
	47/1	0.0720		67/1	0.3843
	47/2			155/30 (स. रास्ता)	0.0085
	47/3			49/1	0.1965
	47/4			49/2	
1 (RIVER)	0.0761			49/3	

[F. No. R-31013/36/2001-O R-II]

HARISH KUMAR, Under Secy.

नई दिल्ली, 28 दिसम्बर, 2001

का. आ. 3493.—केन्द्रीय सरकार को लोकहित में यह आवश्यक प्रतीत होता है कि महाराष्ट्र राज्य में पानेवाडी (मनमाड) संस्थापन से मध्यप्रदेश राज्य में मांगल्या (इन्दौर) तक पेट्रोलियम उत्पादों के परिवहन के लिए भारत पेट्रोलियम कारपोरेशन लिमिटेड द्वारा एक विस्तार पाइपलाइन बिछाई जानी चाहिए;

और केन्द्रीय सरकार को उक्त पाइपलाइन बिछाने के प्रयोजन के लिए यह आवश्यक प्रतीत होता है कि उस भूमि में जिसके भीतर पाइपलाइन बिछाई जाने का प्रस्ताव है और जो इससे उपाबद्ध अनुसूची में वर्णित है, उपयोग के अधिकार का अर्जन किया जाए;

अतः अब, केन्द्रीय सरकार पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उस भूमि में उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा करती है;

कोई व्यक्ति जो उक्त अनुसूची में वर्णित भूमि में हितबद्ध है, उस तारीख से जिसको इस अधिसूचना से युक्त राजपत्र की प्रतियां जनता को उपलब्ध करा दी जाती हैं, इक्कीस दिन के भीतर, भूमि के नीचे पाइपलाइन बिछाने के संबंध में उपयोग के अधिकार का अर्जन के लिए श्री व्ही पी पाठक, सक्षम प्राधिकारी, मुंबई-मनमाड पाइपलाइन विस्तार परियोजना, भारत पेट्रोलियम कारपोरेशन लिमिटेड, 26, पार्क रोड, इन्दौर-452003 (मध्य प्रदेश) को लिखित रूप में आक्षेप भेज सकेगा;

अनुसूची

तहसील : धरमपुरी जिला : धार राज्य : मध्यप्रदेश

क्र.सं. ग्राम का नाम	सर्वे नम्बर	क्षेत्रफल हैक्टेयर
1. गुजरी	84	0.0778

2. डेहरीया

22 (करम नदी)	0.1529
23/1/1	
23/1/2	0.2038
23/2	
23/3	
28	0.0125
29/5	0.1220
29/4	0.1568
29/3	0.0109
30/1	
30/2	0.1275
30/3	
19/1/1	
29/1/2	0.1897
29/1/3	
17	0.1354
20/2	0.0551
20/1	
19 (स. रास्ता)	0.0143
18	0.0429
15	0.2766

ग्राम का नाम	सर्वे नंबर	क्षेत्रफल हैक्टेयर	ग्राम का नाम	सर्वे नंबर	क्षेत्रफल हैक्टेयर
3. सिरसोदिया	351/1	0.1320	3. सिरसोदिया	225	0.0356
	351/2			227/1	0.2160
	351/3			227/2	
	351/4			228/1	0.1018
	350	0.1021		228/2	
	349 (स. चरागाह)	0.0214		229	0.0456
	347/1			233,232	0.0155
	347/2			230	0.0006
	347/3	0.4092		179/1/1	
	347/4			179/1/2	
	347/5			179/2	0.1220
	347/6			179/3	
				183	0.2621
	379 (स. चरागाह)	0.2650		182/1 से 182/9	0.1872
	344,343	0.1983		184 (स. रास्ता)	0.0538
	393 (स. चरागाह)	0.2403		167	0.0467
	394	0.2431		185,186,187	0.1215
	337	0.3190		131/2	0.2583
	338	0.0820		82/2 राष्ट्रीय राजमार्ग 3	0.0541
	332/1			82/1	0.4472
	332/2	0.1308		74/1/1	0.0772
	332/3			75/1	
	331 (स. चरागाह)	0.0998		75/2,74/1/2,76/1	0.2355
	315/1 से 315/14	0.2279		75/3, 74/1/3,76/2	
	314	0.0178		58	0.0184
	313/1			146 (करम नदी)	0.1675
	313/2		4. चिकट्याबद	519	0.1931
	313/3	0.1997		520/1	0.1404
	313/4			502/1	
	313/5			502/2	0.1521
	313/6			502/3	
	313/7			501	0.1170
	300	0.1568		500	0.1580
	294/1			497	0.0819
	294/2			492	0.0175
	294/3/1			496	0.0585
	294/3/2	0.3350		495	0.0819
	294/3/3			494 (स. चरागाह)	0.1580
	294/3/4			433 (स. नाला)	0.0029
	294/3/5			432 (स. चरागाह)	0.0556
	288,285,286,287	0.1215	5. लोधीपुरा	77	0.3473
	284	0.4178		81/1	0.1584
	283/479	0.0191		81/2	0.0743
	280 (स. नाला)	0.0354		81/3	
	221	0.1747		80 (स. नाला)	0.0212

ग्राम का नाम	सर्वे नंबर	क्षेत्रफल	हैक्टेयर	ग्राम का नाम	सर्वे नंबर	क्षेत्रफल	हैक्टेयर
लोधीपुरा—जारी	33 (स. चरागाह)	0.0036		3. दुधी	35	0.0990	
	32	0.3920			34	0.1046	
	31	0.0642			33	0.2615	
	30 (स. चरागाह)	0.1853			18	0.2240	
	29/3	0.1150			19	0.2061	
	29/2	0.1375			20/2	0.0345	
	28	0.0247			29/1		
	27	0.0594			29/2/1/2	0.5438	
	8/1				29/1/1		
	8/2				26/3	0.0001	
	8/3	0.2428			27	0.0512	
	8/4				28 (राष्ट्रीय राजमार्ग, 3)	0.0565	
	8/5				152 (स. चरागाह)	0.0239	
	10	0.1158			151/1	0.4365	
	11	0.1809			151/2		
	1 (राष्ट्रीय राजमार्ग, 3)	0.0713			147	0.3758	
	194/2	0.2171			145/2 (स. चरागाह)	0.1293	
	194/1	0.0499			157	0.1872	
	195/1/1	0.2922			145/1 (स. चरागाह)	0.0223	
	195/1/2				159/1	0.0035	
	195/2				144/2 ख	0.4440	
	195/3				144/1	0.0051	
	195/4				144/2	0.0740	
	196/1	0.1845			144/3	0.0363	
	196/2				126/3	0.1753	
	192	0.0724			135	0.2192	
	166 (स. नाला)	0.0308			128	0.0159	
	126	0.3635			134	0.0002	
	125	0.0549			129	0.0106	
	124	0.1003			132	0.0715	
	123	0.0097			131	0.0891	
	122	0.0688			121 (स. चरागाह)	0.0221	
	120	0.0036			133 (स. नाला)	0.0674	
	117	0.0242			65	0.0906	
	67	0.0485			64	0.0461	
	68	0.1118			61	0.1123	
	70	0.1624			26	0.4922	
	72.71	0.0796		7. एकलारा खुर्द	25	0.2649	
	73	0.1069			24/1	0.0036	
	74	0.1592			24/2		
	76 (स. चरागाह)	0.0507			24/3		
	78/1	0.0172			24/4		
6. दुधी	69	0.2496			24/5		
	73	0.1855					
	72	0.1573					
	71 (स. चरागाह)	0.0899					

ग्राम का नाम	सर्वे नंबर	क्षेत्रफल	हैक्टेयर	ग्राम का नाम	सर्वे नंबर	क्षेत्रफल	हैक्टेयर
एकलारा खुर्द—जारी	23	0.0764		गुलझरी—जारी	57	0.3102	
	22	0.1064			54(स. रास्ता)	0.1362	
	21	0.1969			53	0.1980	
	20	0.1121			52/4	0.1580	
	19	0.3772			8/1	0.2360	
	18	0.0036			8/2		
	17	0.3788			9	0.2894	
	42/1अ (स. नहर)	0.0288			59/1/1	0.0936	
	42/1ब	0.1725			59/1/2		
	42/2				59/2		
	14/1	0.0162		8. बिखरुण	477/1/1	0.2816	
	14/2				477/1/2		
	14/3				477/1/3		
8 गुलझरी	118/1,118/2				477/1/4		
	(स. नहर तथा रास्ता)	0.0238			477/2/1		
	99	0.3606			477/2/2		
	102/1	0.3560			477/2/3		
	102/2				475/1	0.1350	
	101	0.0351			475/2		
	105/1				471.373/1	0.2255	
	105/2	0.0352			473/2		
	105/3				472	0.1704	
	106	0.1740			467, 469	0.3290	
	100/1,47/1	0.0806			465, 466	0.2843	
	85/1	0.3058			462/1		
	85/2				462/2		
	85/3/1				462/3	0.1528	
	85/3/2				462/4		
	84	0.1872			462/5		
	86	0.1440			489/1	0.2880	
	81	0.0720			489/2		
	87	0.1152			454/1	0.1872	
	88	0.0288			454/2		
	66	0.4833			490/1,490/2(स. रास्ता तथा नहर)	0.0216	
	65/1/11	0.1683			453/1	0.2016	
	56/1/2				453/2		
	65/1/3				451/1	0.0458	
	65/2				451/2		
	65/3				450	0.1607	
	65/4/1				455 (स. नाला)	0.0338	
	65/4/2				449	0.0345	
	65/5				414	0.3888	
	119/96	0.1144			415/1	0.0145	

ग्राम का नाम	सर्वे नंबर	क्षेत्रफल	हैक्टेयर	ग्राम का नाम	सर्वे नंबर	क्षेत्रफल	हैक्टेयर
बिखरुण—जारी	415/2			बिखरुण—जारी	217		0.2252
	420	0.1320			224/1,224/2 (स. रास्ता तथा नहर)		0.238
	419	0.3312					
	356/1	0.0176		10 खलखुर्द	42		0.0515
	424 (स. नाला)	0.0295			43		0.0165
	355/1	0.1944			38		0.5434
	355/2				41 (स. चरागाह)		0.0600
	355/3				39		0.3160
	355/4				19		0.2186
	354	0.1584			18		0.4271
	344/1	0.0432			17		0.2490
	344/2				2		0.0040
	346	0.1008			3		0.4626
	347/1	0.1075			6 (स. चरागाह)		0.0447
	347/2						
	347/3/1			11. सुन्देल	728		0.0669
	347/3/2			12. साला	20/1/1क		
	350/1,350/2 (स. रास्ता तथा नहर)	0.0468			20/1/1ख		0.1931
					20/1/2		
	315/1	0.1404			20/2		
	315/2				20/3		
	315/3				21		0.1171
	327	0.0145			24		0.3852
	326	0.1149			25		0.0056
	316/1	0.0072			27/1/1,27/1/2क		0.5383
	316/2				27/1/2ख,		
	325/1	0.1194			27/2/1,27/2/2		
	325/2				27/3		
	324,323	0.0944			27/4		
	320,321	0.0651			27/5		
	322	0.0451			28/3		0.1943
	250/1,250/2 (स. रास्ता तथा नहर)	0.0259			28/2		0.1119
	258	0.1978			28/1		0.1914
	257/1	0.1364			16		0.0429
	257/2				12/1		0.2435
	256	0.1646			12/2		
	255	0.0755			11		0.2347
	212	0.0432			10		0.1416
	236	0.0838			109/1		0.3429
	235	0.0868			109/2		
					106/1		0.2189
					106/2		

ग्राम का नाम	सर्वे नंबर	क्षेत्रफल	हैक्टेयर	ग्राम का नाम	सर्वे नंबर	क्षेत्रफल	हैक्टेयर
साला—जारी	108	0.0210		लुन्हेरा	138/1	0.0511	
	120 (स. रास्ता)	0.0101			138/2		
	105	0.1058			119 (स. रास्ता)	0.0438	
	89	0.3676			118/1, 118/2	0.1082	
	86/1	0.0506			103	0.0121	
	86/2				113/1	0.1899	
	86/3				104	0.0771	
	85	0.1373			93 (सड़क)	0.0420	
	280/74.3	0.2938			88/1, 92	0.1007	
	280/74.2 (स. नहर)	0.0065			88/2		
	280/74.1	0.0288			89	0.2542	
	75.1.1	0.3847			132	0.0036	
	75.1.2.75.2				133	0.0036	
	76/1/1	0.1922			134	0.0036	
	76/1/2				147	0.0036	
	76/2				87	0.2580	
	76.3				84	0.1737	
	76.4				86 (स. चरागाह)	0.0067	
	55	0.1513			85/2/2	0.1051	
	54	0.0810			256 (स. भूमि)	0.4348	
	139 (स. रास्ता)	0.0549			258	0.0977	
	162 (नदी)	0.0804			257	0.0855	
	161.1.1 (स. चरागाह)	0.3214			254/1	0.2673	
	154.1	0.2192			254/2		
	154.2.1				254/3		
	154.2.2				254/4		
	153	0.0573			251/1	0.1711	
	151	0.0306			246 (स. नाला)	0.0143	
	152.1	0.0369			248 (स. नाला)	0.0347	
	152/2				249 (स. चरागाह)	0.0143	
	148 (स. आबादी)	0.0076			247	0.1568	
	150.1	0.0082			243.1	0.1711	
	150.2				243.2		
	135.1	0.0039			242 (स. नाला)	0.0198	
	135.2				241	0.3065	
	140	0.0088			230/1 (स. भूमि)	0.2281	
	102	0.0036			234	0.1497	
	137.1	0.0557			233 (स. नाला)	0.0145	
	137.2				232	0.1160	
	139	0.0308			228	0.0556	
13 लुन्हेरा					227	0.0263	
					226	0.2069	
					225 (स. भूमि)	0.0428	
				[फा. स. आर-31015/35/2001-ओ आर-II]			
				हरीश कुमार, अवर सचिव			

New Delhi, the 28th December, 2001

S. O. 3493.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transport of Petroleum products from the Panwadi (Manmad) terminal in the State of Maharashtra, an extension pipeline to Manglya (Indore) in the State of Madhya Pradesh should be laid by Bharat Petroleum Corporation Limited ;

And whereas it appears to the Central Government that for the purpose of laying such pipeline, it is necessary to acquire the right of user of land under which the said pipeline is proposed to be laid and which is described in the Schedule annexed hereto ;

Now, therefore, in exercise of the powers conferred by Sub-section (1) of Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein ;

Any person, interested in the land described in the said Schedule may, within twenty one days from the date on which copies of the Gazette of India containing this notification are made available to the public, object in writing to the acquisition of the right of user therein for laying of the pipeline under the land to Competent Authority, Shri V P Pathak Mumbai—Manmad Pipeline Extension Project, Bharat Petroleum Corporation Limited 26, Park Road, Indore-452003 (Madhya Pradesh)

SCHEDULE

Tehsil Dharampuri District Badwani State Madhya Pradesh

Name of Village	Survey No	Area in Hectare
1 Gujar	84	0 0778
	77	0 1160
	79	0 1203
	78	0 0387
	81	0 0071
	75	0 2918
	74	0 0071
	68 (GCT)	0 0249
	67.1	0 3843
	155/50 (GCT)	0 0085
	49/1	
	49/2	0 1965
	49/3	
	48	0 0071
	13	0 0487
	19 (GCT)	0 0355
	12	0 2236
	11	0 1040
	10.1	0 0256
	10.2	
	9.4	0 0071
	9/3	0 1282

Name of Village	Survey No.	Area in Hectare
Gujari—Contd.	9/2	0 0221
	8	0 4761
2 Dehriya	22(Karam River)	0 1529
	23/1/1	
	23/1/2	0 2038
	23/2	
	23/3	
	28	0 0125
	29/5	0 1220
	29/4	0 1568
	29/3	0 0109
	30/1	
	30/2	0 1275
	30/3	
	29/1/1	
	29/1/2	0 1897
	29/2/3	
	17	0 1354
	20/2	0 0551
	20/1	
	19 (GCT)	0 0143
	18	0 0429
	15	0 2766
3. Sirsodiya	351/1	
	351/2	0 1320
	351/3	
	351/4	
	350	0 1021
	349 (GL.)	0 0214
	347/1	
	347/2	
	347/3	0 4092
	347/4	
	347/5	
	347/6	
	379 (GL.)	0 2650
	344,343	0 1983
	393 (GL.)	0 2403
	394	0 2431
	337	0 3190
	338	0 0820
	332/1	
	332/2	0 1308
	332/3	
	331 (GL.)	0 0998
	315/1 To 315/14	0 2279
	314	0 0178
	313/1	
	313/2	
	313/3	
	313/4	0 1997
	313/5	
	313/6	
	313/7	
	300	0 1568

Name of Village	Survey No.	Area in Hectare	Name of Village	Survey No.	Area in Hectare
Sirsodiya -Contd	294/1		5. Lodhipura	77	0.3473
	294/2			81/1	0.1584
	294/3/1			81/2	0.0743
	294/3/2	0.3350		81.3	
	294/3/3			80 (G. Drain)	0.0212
	294/3/4			33 (GL)	0.0036
	294/3/5			32	0.3920
	288, 285,			31	0.0642
	286, 287	0.1215		30 (GL)	0.1853
	284	0.4178		29/3	0.1150
	283/479	0.0191		29/2	0.1375
	280 (G Drain)	0.0354		28	0.0247
	221	0.1747		27	0.0594
	225	0.0356		8/1	
	227/1	0.2160		8/2	
	227/2			8/3	0.2428
	228/1	0.1018		8/4	
	228/2			8/5	
	229	0.0456		10	0.1158
	233, 232	0.0155		11	0.1809
	230	0.0006		1(NH 3)	0.0713
	179/1/1			194/2	0.2171
	179/1/2			194/1	0.0499
		0.1220		195/1/1	
	179/2			195/1/2	
	179/3			195/2	0.2922
	183	0.2621		195/3	
	182/1 To 182/9	0.1872		195/4	
	184 (GCT)	0.0538		196/1	0.1845
	167	0.0467		196/2	
	185, 186, 187	0.1215		192	0.0724
	131/2	0.2583		166(G. Drain)	0.0308
	82/2 NH 3	0.0541		126	0.3635
	82/1	0.4472		125	0.0549
	74/1/1	0.0772		124	0.1003
	75/1, 75/2,			123	0.0097
	74/1/2, 76/1,	0.2355		122	0.0688
	75/3, 74/1/3, 76/2			120	0.0036
	58	0.0184		117	0.0242
	146(Karam River)	0.1675		67	0.0485
4 Chiktyavad	519	0.1931		68	0.1118
	520/1	0.1404		70	0.1624
	502/1			72, 71	0.0796
	502/2	0.1521		73	0.1069
	502/3			74	0.1592
	501	0.1170		76(GL)	0.0507
	500	0.1580		78/1	0.0172
	497	0.0819	6. Dudhi	69	0.2496
	492	0.0175		73	0.1855
	496	0.0585		72	0.1573
	495	0.0819		71(GL)	0.0899
	494 (GL)	0.1580		35	0.0990
	433 (G. Drain)	0.0029			
	432 (GL)	0.0556			

Name of Village	Survey No	Area in Hectare	Name of Village	Survey No.	Area in Hectare
Dudhi Contd.	34	0.1046	Aklarakhurd—Contd.	14/1	
	33	0.2615		14/2	0 0162
	18	0.2240		14/3	
	19	0.2061	8 Guljhari	118/1, 118/2 (Canal & GCT)	0 0238
	20/2	0.0345		99	0.3606
	29/1			102/1	0.3560
	29/2/1/2	0.5438		102/2	
	29/1/1			101	0.0351
	26/3	0.0001		105/1	
	27	0.0512		105/2	0.0352
	28(NH3)	0.0565		105/3	
	152(OL)	0 0239		106	0 1740
	151/1	0.4365		100/1, 47/1	0 0806
	151/2			85/1	
	147	0.3758		85/2	
	145/2(GL)	0.1293		85/3/1	0.3058
	157	0.1872		85/3/2	
	145/1(GL)	0.0223		84	0.1872
	159/1	0.0035		86	0.1440
	144/2 KH	0.4440		81	0.0720
	144/1	0.0051		87	0.1152
	144/2	0.0740		88	0.0288
	144/3	0.0363		66	0.4833
	126/3	0.1753		65/1/1	
	135	0.2192		65/1/2	
	128	0.0159		65/1/3	
	134	0.0002		65/2	0.1683
	129	0.0106		65/3	
	132	0 0715		65/4/1	
	131	0.0891		65/4/2	
	121(GL)	0.0221		65/5	
	133(G. Drain)	0.0674		119/96	0.1144
	65	0.0906		57	0.3102
	64	0.0461		54 (GCT)	0 1362
	61	0.1123		53	0.1980
7 Aklarakhurd	26	0.4922		52/4	0.1580
	25	0.2649		8/1	0.2360
	24/1			8/2	
	24/2			9	0 2894
	24/3	0.0036		59/1/1	
	24/4			59/1/2	0.0936
	24/5			59/2	
	23	0.0764	9 Bikhrun	477/1/1	
	22	0.1064		477/1/2	
	21	0.1969		477/1/3	
	20	0.1121		477/1/4	0.2816
	19	0.3772		477/2/1	
	18	0.0036		477/2/2	
	17	0.3788		477/2/3	
	42/1A (Canal)	0.0288		475/1	0.1350
	42/1B	0.1725		475/2	
	42/2			471, 473/1	0.2255
				473/2	
				472	0.1704
				467, 469	0.3290

Name of Village	Survey No.	Area in Hectare	Name of Village	Survey No.	Area in Hectare
Bikhrun—Contd.	465,466	0.2843	Bikhrun—Contd.	324,323	0.0944
	462/1			321,320	0.0651
	462/2			322	0.0451
	462/3	0.1528		250/1, 250/2	0.0259
	462/4			(Canal & GCT)	
	462/5			258	0.1978
	489/1	0.2880		257/1	0.1364
	489/2			257/2	
	454/1	0.1872		256	0.1646
	454/2			255	0.0755
	490/1,490/2			212	0.0432
	(Canal & GCT)	0.0216		236	0.0838
	453/1	0.2016		235	0.0868
	453/2			217	0.2252
	451/1	0.0458		224/1,224/2	0.0238
	451/2			(Canal & GCT)	
	450	0.1607	10. Khalkhurd	42	0.0515
	455 (G. Drain)	0.0338		43	0.0165
	449	0.0345		38	0.5434
	414	0.3888		41 (GL)	0.0600
	415/1	0.0145		39	0.3160
	415/2			19	0.2186
	420	0.1320		18	0.4271
	419	0.3312		17	0.2490
	356/1	0.0176		2	0.0040
	424 (G. Drain)	0.0295		3	0.4626
	355/1			6 (GL)	0.0447
	355/2		11. Sundrel	728	0.0669
	355/3	0.1944	12. Sala	20/1/1K	
	355/4			20/1/1K11	
	354	0.1584		20/1/2	0.1931
	344/1	0.0432		20/2	
	344/2			20/3	
	346	0.1008		21	0.1171
	347/1			24	0.3852
	347/2			25	0.0056
	347/3/1	0.1075		27/1/1,27/1/2K	
	347/3/2			27/1/2K11	
	350/1, 350/2	0.0468		27/2/2,27/2/1	0.5383
	(Canal & GCT)			27/3	
	315/1			27/4	
	315/2	0.1404		27/5	
	315/3			28/3	0.1943
	327	0.0145		28/2	0.1119
	326	0.1149		28/1	0.1914
	316/1	0.0072		16	0.0429
	316/2			12/1	0.2435
	325/1	0.1194		12/2	
	325/2	0.1194			

Name of Village	Survey No.	Area in Hectare	Name of Village	Survey No	Area in Hectare
Sala—Contd	11	0.2347	Lunhera—Contd.	119 (GCT)	0.0438
	10	0.1416		118/1,118/2	0.1082
	109.1	0.3429		103	0.0121
	109/2			113/1	0.1899
	106/1	0.2189		104	0.0771
	106/2			93(Road)	0.0420
	108	0.0210		88/1,92	0.1007
	120 (GCT)	0.0101		88/2	
	105	0.1058		89	0.2542
	89	0.3676		132	0.0036
	86/1			133	0.0036
	86/2	0.0506		134	0.0036
	86/3			147	0.0036
	85	0.1373		87	0.2580
	280/74/3	0.2938		84	0.1737
	Canal (280/74/2)	0.0065		86 (GL)	0.0067
	280/74/1	0.0288		85/2/2	0.1051
	75/1/1	0.3847	14. Dugni	256(GL)	0.4348
	75/1/2,75/2			258	0.0977
	76/1/1			257	0.0855
	76/1/2			254/1	
	76/2	0.1922		254/2	0.2673
	76/3			254/3	
	76/4			254/4	
	55	0.1513		251/1	0.1711
	54	0.0810		246(G. Drain)	0.0143
	139(GCT)	0.0549		248 (G. Drain)	0.0347
13. Lunhera	162(River)	0.0804		249 (GL)	0.0143
	161/1/1(GL)	0.3214		247	0.1568
	154/1			243/1	0.1711
	154/2/1	0.2192		243/2	
	154/2/2			242 (G. Drain)	0.0198
	153	0.0573		241	0.3065
	151	0.0306		230/1 (GL)	0.2281
	152/1	0.0369		234	0.1497
	152/2			233 (G. Drain)	0.0113
	148(GL, Abadi)	0.0076		232	0.1160
	150/1	0.0082		228	0.0966
	150/2			227	0.0263
	135/1	0.0039		226	0.2069
	135/2			225 (GL)	0.0428
	140	0.0088			
	102	0.0036			
	137/1	0.0557			
	137/2				
	139	0.0308			
	138/1	0.0511			
	138/2				

श्रम मंत्रालय

नई दिल्ली, 29 नवम्बर, 2001

का.आ. 3494.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बैंक ऑफ इंडिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय कानपुर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 28-11-2001 को प्राप्त हुआ था।

[सं. एल.—12011/23/87-डी-II (ग)]

सी. गंगाधरण, अवर सचिव

MINISTRY OF LABOUR

New Delhi, the 29th November, 2001

S.O.3494.—In pursuance of Section 17 of the Industrial dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal/Labour Court, Kanpur as shown in the annexure in the Industrial Dispute between the employers in relation to the management of Bank of India and their workman, which was received by the Central Government on 28-11-2001.

[No. L-12011/23/87-D(IIA)]

C. GANGADHARAN, Under Secy.

ANNEXURE

BEFORE SRI R.P. PANDEY PRESIDING OFFICER
CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL CUM LABOUR COURT
SARVODAYA NAGAR, KANPUR

Industrial Dispute No. 232 of 89

In the matter of dispute between

Secretary
Bank of India Staff Association
Bank of India
Jeewan Bima Building
The Mall Kanpur
And
Zonal Manager
Bank of India
Mohini Mension
1 Naval Kishore Road
Lucknow

Award

1. Central Government, Ministry of Labour, New Delhi, vide its notification No. L-12011/23/87-D2(A) dated nil has referred the following dispute for adjudication to this Tribunal —

Whether the action of the management of Bank of India in not paying special allowance to the
3854 GI/2001—9

staff posted at clearing house of Lucknow, Agra, Unnao, Varanasi and Kanpur as per list enclosed is justified? If not to what relief were the workmen entitled?"

2. In this case earlier this tribunal rendered its award dated 16-7-97 in favour of the workman which was published by the Government of India, Ministry of Labour, New Delhi on 28-7-97 in the Gazette of India. The management of the Bank being aggrieved by the aforesaid award of this tribunal filed Special Leave Petition before the Hon'ble Supreme Court of India and the Hon'ble Court vide its order dated 9-4-2001 passed in Civil Appeal No. 8569 of 97 remitted the matter to this Tribunal for deciding a fresh in the light of observations made in the judgment. Upon receipt of the copy of order of the Hon'ble Supreme Court fresh notices were issued to the parties calling upon the to file their respective claims.

3. On 13-11-2001 when the case was taken up for hearing Sri Y.K. Arora, General Secretary of the Bank of India Staff Union, who raised the present industrial dispute moved an application before the tribunal stating that the issue raised in the industrial dispute has been going on for a long period since 1989 in different courts and in the meantime the issue raised in the industrial dispute has lost its relevance considering the change in service conditions of workman staff in the bank and banking industry over these years. Under these circumstances the BOI Staff Union does not want to continue with the industrial dispute against the bank and wish to withdraw the same as no dispute exists.

4. In view of the above statements made by the Union raising the present industrial dispute, the tribunal is left with no other option but to decide the reference against the Union for want of proof as there exists no dispute between the parties.

5. Accordingly it is held that the workmen are not entitled to any relief in pursuance of the reference made to this tribunal.

6. Reference is, therefore, decided accordingly.
R.P. PANDEY, Presiding Officer

नई दिल्ली, 29 नवम्बर, 2001

का.आ. 3495.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार यूनियन बैंक ऑफ इंडिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय-II, मुम्बई, के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 28-11-2001 को प्राप्त हुआ था।

[सं. एल.—12011/25/99-आई.आर. (वी-II)]

सी. गंगाधरण, अवर सचिव

New Delhi, the 29th November, 2001

S.O. 3495:- In Pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal/Labour Court-II, Mumbai as shown in the annexure in the Industrial Dispute between the employers in relation to the management of Union Bank of India and their workman, which was received by the Central Government on 28-11-2001.

[No. L-12011/25/99-IR(B-II)]

C. GANGADHARAN, Under Secy.

**ANNEXURE
BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL NO. II, MUMBAI
PRESENT**

S. N. Saundankar

Presiding Officer

REFERENCE NO. CGIT-2/169 of 1999

EMPLOYERS IN RELATION TO THE MANAGEMENT OF UNION BANK OF INDIA

The General Manager,
UBI, Zonal Office,,
Mumbai Samachar Marg,
Mumbai-400 023.

AND

THEIR WORKMAN

The General Secretary,
Union Bank of India Karmachari Sena,
Union Bank Bhawan,
Mumbai-400 022

APPEARANCES :

For the Employer : Mr. A. K. Jalisatgi
Advocate

For the workmen : Mr. Jaiprakash Sewant
Advocate

Mumbai, dated 18th October, 2001

AWARD

The Government of India, Ministry of Labour, by its Order No. L-12011/25/99/IR (B-II), dtd. 12/16-8-1999, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, have referred the following Industrial Dispute to this tribunal for adjudication :

“Whether the action of the management of Union Bank of India, Mumbai for non-payment of telephone allowance to the blind Operators at par with the other able operator is justified? If

not, then what relief these four number of blind operators (below mentioned) are entitled to?”

1. Shri Bhimji Kataria
2. Mrs. Parvesh Mehta
3. Shivaji Nangrale
4. Chandbas Patu

2. The General Secretary of the Union Bank Karmachari Sena Mr. Tulaskar vide Statement of Claim (Exhibit-4) pleaded that the Telephone Operators named in the schedule are working in the bank and consequently attending to the work attached to the post of Telephone Operators with whatever equipments/appliances given to them, and that to carry out the work they are necessary to be paid Special Allowance under the provisions of Bipartite Settlement as revised time to time. The union brought the same to the notice of the management, but, in vain. Therefore the union raised a dispute and hence the instant reference. The Management Union Bank of India, opposed the claim vide Written Statement (Exhibit-6), contending that the blind operators are not entitled to Special Allowance at par with able operators from the date of their appointments

3. The matter was consequently as seen from the record, after framing the issues at Exhibit-9, was fixed for hearing and that union has filed affidavit (Exhibit-14) and that the unions General Secretary, Mr. Tulaskar was cross-examined by the management's counsel on 12-6-2001. On 27-9-2001 the management vide application (Exhibit-16) contended that the bank undertakes to pay telephone allowance to the blind operators named in the schedule at par with other able operators, after making calculations. In response to that, the union vide purshis (Exhibit-17) contended that since management accepted the demand of the blind operators, incorporated in the schedule, the reference be disposed of, for non-prosecution. In view of the position the reference will have to be disposed of and hence the order :

ORDER

Reference stands disposed of for non-prosecution vide (Exhibit-16 & 17).

S. N. SAUNDANKAR, Presiding Officer

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL NO. 2 AT MUMBAI**

Reference No. CGIT-2/169 of 1999

Between
Union Bank of India

And

Their Workmen represented by
Union Bank Karmachari Sena.

MAY IT PLEASE THIS HON'BLE TRIBUNAL

Union Bank of India, (hereinafter referred to as the Bank) crave leave to state and submit as under :

1. The above reference pertains to the demand of four operators that they should be given Telephone Operator's Special Allowance. It is the case of the Bank that as per the Bipartite Settlement only those Telephone Operators who are operating a PABX Board with more than two external lines are entitled to the Telephone Operators' Special Allowance and that the demands of concerned four operators is therefore illegal, unjustified and untenable.

2. However, no the Central Management of the Bank has on its own taken a decision, in principle, to pay the Special Allowance for Telephone Operators to the workmen concerned in this Reference, irrespective of whether they have operated PBAX Board with more than 2 external lines or not.

3. As verified from the records, out of 4 workmen concerned in this reference, Mr. B. S. Kataria and Mr. P. J. Mirza are being paid said Allowance since beginning. However, in case of other two concerned workmen viz., Mr. S. B. Nagrale and Mr. C. A. Pattu, they have not been paid Special Allowance for Telephone Operators during following period, as during this period, they were posted in Branches having PBAX Board with less than two external branches :

Name	Period
(i) Mr. S. B. Nagrale	06-05-81 to 30-09-98
(ii) Mr. C. A. Pattu	22-12-83 to 31-03-97

4. The Bank as per its decision mentioned in Para 2 hereinabove, shall make the payment of Special Allowance for Telephone Operators to these two Operators. However, as it pertains to a very long period, it will require some time for the Bank to calculate and pay the said Special Allowance. The Bank undertakes to pay the said Allowance at the earliest.

5. In view of what is stated hereinabove the Bank submits that the demand of the workman and the Reference have become infructuous and hence should be rejected/dismissed. It is accordingly prayed to this Hon'ble Court to reject/dismiss the Reference.

6. The Bank craves leave to add to, amend and make alterations in what is stated hereinabove, as and when may deem just and necessary.

MUMBAI For Union Bank of India
Date : 27th Sept. 2001 J.D. KAMBLE

VERIFICATION

I, J.D. Kamble, Sr. Personal Manager of Union Bank of India do hereby verify and state that what is stated hereinabove is true and correct to the best of

my personal knowledge. All the legal submission are based on legal advice which I believe to be true and correct.

Verified and signed
at Mumbai on this 27th
day of September, 2001

J.D. Kamble,
For Union Bank of India

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL, No 2, Mumbai

Reference No. CGIT-2/ 169 of 1999

Union Bank of India
Vs.
Their workman

Application for disposal of the reference
for want of prosecution

May it please your honour

the union submits that in view of the management's application of Ex. 16, the demands covered in the Reference Order stands resolved and, therefore, the union prays that this Honble Tribunal may be pleased to dispose of the reference order for want of prosecutions or not pressed.

Mumbai (JAIPRAKASH SAWANT)
Date 18-10-2001 Advocate for the Union

नई दिल्ली, 28 नवम्बर, 2001

का.अ. 3496— औद्योगिक विवाद अधिनियम, 1947 (1917 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार पंजाब नेशनल बैंक के प्रबंधकों के संबंध में और उनके कर्मचारियों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/थम न्यायालय चैन्नई के पंचाट को प्रकाशित करता है, जो केन्द्रीय सरकार को 28-11-2001 को प्राप्त हुआ था।

[सं. एल.-12011/140/99-आई.आर. (बी-II)]
सी. गंगाधरन, अवसर सचिव

New Delhi, 28th November 2001

S.O. 3496.—In Pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal Labour Court, Chennai as shown in the annexure in the Industrial Dispute between the employers in relation to the management of Punjab National Bank and their workman, which was received by the Central Government on 28-11-01.

[No. I-12011/140/99-IR(B-II)]
C. GANGADHARAN, Under Sec

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL
TRIBUNAL CUM- LABOUR COURT CHENNAI

Friday, the 2nd November, 2001

Present K. KARTHIKEYAN,

Presiding Officer

INDUSTRIAL DISPUTE No. 733/2001

(Tamil Nadu Principal Labour Court CGID
No. 1, 2000)

(In the matter of the dispute for adjudication under clause (d) of Sub-section (1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between S.S. Rajan and the Management of Punjab National Bank, Chennai).

BETWEEN

The General Secretary, I Party/Chalimant
Punjab National Bank Staff Union
Chennai.

AND

The Senior Regional Manager, IIParty/Management
Punjab National Bank, Chennai.

Appearance:

For the Claimant Sri R. Subramaniam.
Advocate.

For the Managements : Sri V. Selvaraj, Senior,
Manager, PNB
Authorised Representative

ORDER

The Govt. of India, Ministry of Labour in exercise of powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of Industrial Dispute Act, 1947 (14 of 1947), have referred the following Industrial Dispute for adjudication vide Order No. L-12011/140/99-IR(B-II) dated 21-01-2000:

"Whether the Management of Punjab National Bank is justified in debarring Sri S.S. Rajan w.e.f. 29-12-1997? If no, what relief the employee is entitled?"

2. This reference has been made earlier to the Tamil Nadu Principal Labour Court, where it was taken on file as CGI. DNo. 1/2000. When the matter was pending enquiry in that Principal Labour Court, the Govt. of India, Ministry of Labour was pleased to order transfer of this case from that Labour Court to this Tribunal for adjudication. On receipt of records from that Principal Labour Court, the case has been taken on file as I.D. No. 733/2001 and notices were sent

to the counsel for the I Party and the authorised representative for the II Party/Management informing them about the transfer of this case to this Tribunal with a direction to appear before this Tribunal on 19-10-2001. On receipt of notice by the counsel for the I Party/Claimant and the authorised representative for the II Party Management on the appointed date on 19-10-2001, none of them were present, Hence the matter was adjourned to this day 2-11-2001 for either Party to this dispute to prosecute this dispute.

3. When the matter was taken up to-day, the authorised representative for the II Party/ Management, Punjab National Bank, Chennai, appeared and represented that the same-reference was already sent by the Ministry to this Tribunal which was taken on file by this Tribunal as I.D. No. 34/2000 and an Award has been passed on 31st October, 2000 itself. He filed a memo to that effect and requested this Tribunal to close the reference on the ground that the industrial dispute in question has already been adjudicated by this Tribunal and an Award has been passed by this Tribunal on 31-10-2000 itself. Neither the I Party/Union nor the counsel on record for the I Party appeared to-day.

4. On the perusal of records pertaining to I.D. No. 34/2000 it is seen that the same reference has been sent to this Tribunal by the Ministry of Labour, Govt. of India which was received on 3-8-2000 and was taken on file as 34/2000 on 4-8-2000. Further it is seen that the referred industrial dispute between the parties was adjudicated on merits and an Award was passed by this Tribunal on 31-10-2000 itself and on receipt of this Award copy, Ministry of Labour, Government of India had sent Notification dated 8-11-2000, to the Manager, Government of India Press, New Delhi to have the Award published in the Central Govt. Gazette and accordingly, the Award had been published in the Gazetted of India issued dated 2-12-2000 under Part II Section III(2).

5. In view of the above fact, and in view of the memo filed by the authorised representative for the II Party/Management/Punjab National Bank, Chennai, this industrial dispute No. 733/2001 is dismissed, since the same dispute had been disposed of by this Tribunal under ID No. 34/2000 and it has been duly published in the Government of India Gazette also. Hence, the concerned reference made earlier to Tamil Nadu Principal Labour Court, Chennai which was taken on file there as CGID No. 1/2000 and subsequently received on transfer and taken on file disposal is closed, as the concerned dispute has already been disposed of.

(Dictated to the Stenographer transcribed and typed by him, corrected and pronounced by me in the open court on this day the 2nd November, 2001).

K. KARTHIKEYAN, Presiding Officer

नई दिल्ली, 29 नवम्बर, 2001

AWARD

का.आ. 3497 :—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण से, केन्द्रीय सरकार ओरिएण्टल बैंक ऑफ कॉमर्स के प्रबंधन के संबंध में नियोक्तों और उनके कर्मचारों के बीच, अनुबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक विवाद/श्रम न्यायालय-II, मुम्बई, के पंचाट को प्रकाशित करता है, जो केन्द्रीय सरकार को 28-11-2001 को प्राप्त हुआ था।

[सं. एन-12011/209/2000-आई.आर. (बी-II)]

सी. गंगाधरन, अवसर सचिव

New Delhi, the 29 November, 2001

S.O. 3497. -In Pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal/Labour Court-II, Mumbai as shown in the annexure in the Industrial Dispute between the employers in relation to the management of Oriental Bank of Commerce and their workman, which was received by the Central Government on 28-11-2001.

[No. L-12011/209/2000-IR(B-II)]

C. GANGADHARAN, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. II, MUMBAI.

PRESENT

S.N. SAUNDANKAR
PRESIDING OFFICER
REFERENCE NO. CGIT-2/114 of 2000.
EMPLOYERS IN RELATION TO THE
MANAGEMENT OF ORIENTAL BANK OF
COMMERCE

The Dy. Gen. Manager,
OBC, Maker Tower,
'E' Wing, 14th Floor,
Cuffe Parade,
Mumbai 400 005.

AND

THEIR WORKMEN

The General Secreary,
Oriental Bank of Commerce Empls. Union,
Jash Chambers, Gr. Floor, Sir P.M. Road,
Fort. Mumbai 400 001.

APPEARANCES :

For the Employer : Mr. Vijay Kantharia
Advocate.

For the Workmen : Mr. Umesh Nabar
Advocate.

Mumbai, dated 19th October, 2001.

The Government of India, Ministry of Labour, by its Order No. L-12011/209/2000/IR(B-II), dtd. 29-11-2000, in exercise of the powers conferred by clause (d) of Sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act have referred the following Industrial Disputes to this tribunal for adjudication.

“Whether the action of the management of Oriental Bank of Commerce by dismissing Shri Shankar Devdare from the services of the Bank is just and proper? If not, then what relief the workman is entitled to?”

2. In response to the notice workman Shri Shankar Devdare appeared and filed his Statement of Claim (Exhibit-5) and that the same claim was opposed by the management Oriental Bank of Commerce vide Written Statement (Exhibit-7). Consequently matter was today fixed for filing Rejoinder by the workman/union. However, both the parties contended vide settlement (Exhibit-8) that the matter has been settled and therefore the reference be disposed of. Therefore following order is passed :

ORDER

Reference stands disposed of as settled vide (Exhibit-8)

S. N. SAUNDANKAR, Presiding Officer

BEFORE THE CENTRAL INDUSTRIAL TRIBUNAL NO. 2 AT BOMBAY

REFERENCE CGIT 2/114 OF 2000

BETWEEN

EMPLOYER IN RELATION TO
MANAGEMENT OF ORIENTAL BANK OF
COMMERCE

AND

THE WORKMEN

Terms of Settlements

(1) By settlement arrived between the Oriental Bank of Commerce and All India Oriental Bank Employees Federation on 9-10-2001 have agreed to settle the Industrial Dispute pending at adjudication before this Hon'ble Tribunal as per the terms and conditions contained herein below.

(b) The first party Bank has agreed to reinstate Shri Shankar Devdare the concerned workman in the instant reference. The reinstatement of Shri Devdare shall be without back wages. The reinstatement of the concerned workman Shri Shankar Devdare in the services of the Bank shall be on the post and

basic pay same as on the date of his dismissal. The concerned workman Shri Shanker Devdare shall not be entitled and no benefit of seniority or any other service benefit for the interrupted period of his service.

- (b) The Second party and the concerned workmen has unconditionally agreed and accepted the terms of settlements as more specifically contained in paragraph (a) above and acknowledges that reinstatement of Shri Shanker Devdare in the services of the Bank is without back wages, on the same post and basic pay as on the date of his dismissal and no benefit of seniority or any other service benefit for the interrupted period of services will be claimed by the concerned workmen and/or the Second Party.
- (c) The concerned workman shall withdraw all the matters, which are filed by him or filed on his behalf by the Union against the Bank in respect of reinstatement of services of the bank, which may be pending in any Court or Tribunal.
- (d) The Union as well as the concerned workmen withdraws all the allegations against the Bank unconditionally.

(2) The parties hereto pray that the reference be disposed of and award be passed in terms of clauses 1, (a), (b) (c) & (d) hereinabove as amicably settled out of the Court with no order as to cost.

Mumbai dated this 19th day of October 2001

For the Second Party For the First Party
Shakar Devdare [A. Bhakraborty] Chief Manager
Gen. Secretary,

O.B.C.I.U. (Mah.) & Concerned Employees
Advocate for the First Party
(V.H. Kanthara)

P.B. Ware, Asst. Secy. O.B.C.U. (Mah.)
I Know that Workman and identified by me
Sd/- Illegible
Advocate

नई दिल्ली, 29 नवम्बर, 2001

का.अ. 3498.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) का प्रा. 17 के अनुसर्ग में, केन्द्रीय सरकार केन्द्र बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय सम्बन्ध के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 28-11-2001 को प्राप्त हुआ था।

[गं. एन.-12011/231/2000-आई.आर. (बी-II)]

मं. गंगाधरन, अवर सचिव

New Delhi, the 29th November, 2001

S.O. 3498.—In Pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal/Labour Court, Lucknow as shown in the annexure in the Industrial Dispute between the employers in relation to the management of Canara Bank and their workman, which was received by the Central Government on 28-11-2001

[No. L-12011/231/2000-IR(B-II)]

C. GANGADHARAN, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT
LUCKNOW

PRESIDING OFFICER : RUDRESH KUMAR
ADJUDICATION

I.D. No. 12/2001

Ref. No. L-12011/231/2001 IR/(B-II)

Dated 12/16-1-2001

BETWEEN

The State Vice President
U.P. Bank Workers Organisation
Central Office 38/4, B Friends Centre
Sanjay Place,
Agra, (U.P.) (espousing cause of Tula Ram)

AND

General Manager
Canara Bank, Service Office
Rohit Bhavan, Floor No. 4
Shapru Marg
Lucknow (U.P.)

AWARD

By order No. L-12011/231/2000/IR(B-II) dated 12/16-1-2001, the Central Government in the Ministry of Labour, in exercise of powers conferred by clause (d) of sub-section (1) and sub section (2-A) of I.D. Act, 1947 (14 of 1947) referred this industrial dispute between the State Vice President, U.P. Bank Workers Organisation, Agra and General Manager, Canara Bank, Lucknow for adjudication.

The reference is produced as under :

“Whether the Action of the Deputy General Manager Canara Bank, Lucknow in non-recording of educational Qualification M.A. (Hindi) in the service of records of Shri Tula Ram. Armed Guard is legal and justified? If not, what relief the workman Shri Tula Ram is entitled to?

2. The workman, Tula Ram, Armed Guard (No. 44051) posted at Naraich Branch of the Canara Bank, Agra has raised this industrial dispute seeking incorporation of his M.A. (Hindi) Degree awarded by

Dr. B.R. Ambedkar University, in his service records. He joined service on 22-11-1983 and at that time his educational qualification was High School. He passed his M.A. Part I in 1995-96 and later completed final degree from the said university in Hindi literature. In compliance of the guidelines followed in the bank, he deposited his M.A. degree and mark sheet with the bank with request to note his higher educational qualifications in the service record. The management by its letter dt. 29-9-97 declined to note M.A. degree, hence this industrial dispute.

3. The management in its written statement has not denied that Tula Ram, the workman, was appointed as Armed Guard in the bank or was posted at Narain branch, Agra of the bank. At the time of his appointment in the bank, the workman, had submitted an application dated 8-8-83 in which his educational qualification was mentioned as 'High School' and the same was duly noted in his service record. As per rules, an employee pursuing studies after joining the bank has to seek permission of the competent authority. The workman obtained certificates of Madhyama and Uttama from Hindi Sahitya Sammelan, Allahabad and later, obtained M.A. degree in Hindi from Dr. B.R. Ambedkar University. It is pleaded by the management that Madhyama & Uttama from Hindi Sahitya Sammelan, Allahabad are equivalent to B.A. and B.A. (Hons) respectively, only for the purposes of equivalent Hindi B.A. and B.A. (Hons) as has been clarified by the Govt. of India, Ministry of Human Resource Development, Department of Education. The bank can not treat such qualification as full-fledged degree and informed the workman vide letter dt. 14-12-1995.

4. Later, the workman by his letter dated 9-9-95 sought permission from the bank to appear in the M.A. examination of Dr. B.R. Ambedkar University on the basis of Madhyama & Uttama examination passed by him from Hindi Sahitya Sammelan, Allahabad. In reply, by its letter dated 18-11-1995, the management informed him that as per bank records, his educational qualification is high School hence permission can not be granted to him for appearing in M.A. examination. Despite refusal of the bank to grant permission to appear in M.A. examination, the workman appeared in M.A. (Hindi) examination and obtained M.A. degree from Dr. B.R. Ambedkar University, Agra and intimated the bank about the said fact, by letter dt. 2-1-1997. Thereafter, the bank by its letter dt. 29-9-97, explained/informed to him that 'Sahitya Ratna examination' conducted by Hindi Sahitya Sammelan, Allahabad is equivalent to graduate for the purposes of knowledge of Hindi and not for promotion, increments etc. hence in the absence of graduate qualification, his M.A. qualification can not be noted in his service record.

5. In fact, the management has not challenged higher qualifications of the workman by way of passing 'Madhyama and Uttama' examinations from Hindi Sahitya Sammelan, Allahabad and thereafter M.A. degree from Dr. B.R. Ambedkar University but its contention is that the Madhyama and Uttama examination are not equivalent to degree and are simply proficiency certificates in Hindi and so obtaining M.A. degree from Dr. B.R. Ambedkar University on the basis of Madhyama and 'Uttama' degree can not be taken into consideration by the bank and so be noted in service records. It seems that the apprehension of the bank in noting M.A. degree in service record of the workman would entitle him to various perquisites and benefits admissible to employees similarly qualified, hence the reluctance.

6. The parties relied on oral and documentary evidence. The workman filed his affidavit in shape of oral evidence and was cross-examined by the management. Likewise, Mr. S. K. Saxena, Manager at circle office, Canara Bank, Lucknow office was examined by the bank to justify its action of not noting M.A. degree in service records of the workman.

7. The terms of reference is confined to action of the management in not recording educational qualification M.A. (Hindi) in the service record of the workman. This reference does not include noting of other qualifications in his service record. This tribunal has to confine discussion about legality of the act of the management in turning down the request of the workman to record higher educational qualification, M.A. (Hindi) which undisputedly was awarded to him by Dr. B. R. Ambedkar University.

8. As observed earlier, the passing of Madhyama and Uttama' examinations from Hindi Sahitya Sammelan, Allahabad and recognition of these certificates equivalent to B.A. and B.A. (Hons) in Hindi is not disputed. The management itself takes cognizance of this fact that the said examinations were treated equivalent to B.A. and B.A. (Hons) only for the purposes of proficiency in Hindi Literature. Taking so, these proficiency in Hindi literature are higher qualifications than 'High School' and should have been noted in the service record of the workman, Dr. B. R. Ambedkar University permitted the workman to take M.A. degree in Hindi literature treating Madhyama and Uttama examinations equivalent to graduate degree. It is not open to the bank to decide as which the degree is B.A. or M.A. or whether Dr. B. R. Ambedkar University rightly treated Madhyama and Uttama examinations equivalent

to degree, permitting the workman to appear in M.A. examination. It is prerogative of the the university to consider as which degree from which university or institutions to be treated graduate degree, to entitle one to appear in Master d gree. In any event, the management has not disputed that M.A. degree was not obtained by the workman. It is also not disputed that M.A. degree is higher qualification. The management has no authority to challenge a degree by way of refusing to note such degree in service record of the workman. Mr. S. K. Saxena appearing for the bank admitted that Madhyama and Uttama certificates are higher to the High School examination. He admitted that the bank is not competent to take decision about equivalence of any degree but such right is vested in the university or the educational institution. In the present case, the university has not questioned its degree and likewise, the management has not questioned bonafides of M.A. degree. The very exercise of the management to enquire into such facts whether the university should have given permission to appear in M.A. (Hindi) on the basis of 'Madhyama and Uttama' qualifications was improper. In substance, the action of the bank in refusing to note M.A. degree in service record of the workman is not sustainable in law.

9. The submission of the management that noting of the degree in service record may result into claim of higher service benefits by the workman. This submission is totally misconceived. An employee is entitled to claim whatever legally admissible to him, but such future claim can not entitle the management to decline noting of higher qualification in service record.

10. Action of the management was not justified. The workman is entitled to relief claimed. Award as above, is, in favour of the workman.

Lucknow RUDRESH KUMAR Presiding Officer
23-11-2001

नई दिल्ली, 29 नवम्बर, 2001

क्रा.आ. 3499.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार विजया बैंक के प्रबंधन के संबंध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निविष्ट औद्योगिक विवाद

में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय वेगवोर के वंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 28-11-2001 को प्राप्त हुआ था।

[सं. एल.-12012/73/98-आई.आर. (बी-II)]

सी. गंगधरण, अवर सचिव

New Delhi, the 29th November, 2001

S. O. 3499.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal/Labour Court, Bangalore as shown in the annexure in the Industrial Dispute between the employers in relation to the management of Vijaya Bank and their workman, which was received by the Central Government on 28-11-2001.

[No. L-12012/73/98-IR (B-II)]

C. GANGADHARAN, Under Secy

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT "SHRAM SADAN"

III MAIN, III CROSS, II PHASE, TUMKUR
ROAD, YÉSHWANTHPUR, BANGALORE

Dated : 7th November 2001

PRESENT

HON'BLE SHRI V. N. KULKARNI, B. Com. LLB
PRESIDING OFFICER

CGIT-CUM-LABOUR COURT,
BANGALORE

C. R. NO. 2/99

I PARTY

The Secretary,
Vijaya Bank Employees
Federation,
VBEF, 18-22, Byalappa
Building, Cubbonpet Main
Road,
Bangalore-560002
(Advocate-G. Hegde)

II PARTY

The General Manager,
Vijaya Bank,
Head Office,
M. G. Road,
Bangalore-560001
(Advocate-P. Sawkar)

AWARD

1. The Central Government by exercising the powers conferred by clause (d) of sub-section 2A of the Section 10 of the Industrial Disputes Act, 1947 has referred this dispute vide order No

L-12012/73/98/IR (B-II) dated the 30th December, 1998 for adjudication on the following schedule :

SCHEDULE

"Whether the action of the management of Vijaya Bank in terminating the services of Shri N. Narayan Kumar is legal and justified? If not, to what relief the said workman is entitled?"

2. First party was working with the Second Party. He was terminating and therefore, Industrial Dispute is raised.
3. Parties appeared and filed Claim Statement and Counter respectively.
4. The case of the first party in brief is as follows :--
5. The union of Vijaya Bank Employees Federation has raised this dispute, First party is a member of Schedule Caste. He was appointed as a workman to discharge the duties of Peon w.e.f. 1-9-1995. He was terminated w.e.f. 10-4-1997 and this amounts to retrenchment and he was terminated without complying the mandatory provisions of Industrial Dispute Act. He was worked continuously for more than 240 days. The union for these reasons and for some other reasons has prayed to pass award in his favour.
6. The case of the second party in brief is as follows :
7. There is no relationship of master and servant between the management and the workman. He was engaged only on daily wages within the meaning of clause 20.7 of the Bipartite Settlement and he has no right at all.
8. About the union of the bank details are given in para 2 of the Counter.
9. The main contention of the management is that he was a temporary workman and he has not worked for more than 240 days at any time and he does not become a permanent Govt. servant as per rules. Decisions of Supreme Court are also relied in the Counter. Management for these reasons and for some other reasons has prayed to reject the reference.
10. It is seen from the records that the first party is not interested in this dispute and he remained absent. Therefore one witness was examined on behalf of the management.

11. Mr. Jayanada Shetty, Manager has stated that first party was taken as temporary Peon and he was engaged as per clause 20.7 of the Bipartite Settlement. He was not recommended by Employment Exchange and he has not worked continuously for more than 240 days in any year. There is no reason to discard this evidence of MWI because he is not cross examined and first party has not participated in the proceedings.

12. Keeping in mind the principles held in the decisions referred by the management in the counter I am of the opinion that there is no merit in this dispute and accordingly I proceed to pass the following Order :

ORDER *

The reference is rejected.

(Dictated to PA transcribed by her corrected and signed by me on 7th November, 2001)

V. N. KULKARNI, Presiding Officer

नई दिल्ली, 29 नवम्बर, 2001

का.आ. 3500.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बैंक ऑफ इंडिया के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, बंगलूर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 28-11-2001 को प्राप्त हुआ था।

[सं. एल.-12012/184/93-आई.आर. (बी-II)]

सी. गंगाधरण, अवसर सचिव

New Delhi, the 29th November, 2001

S.O. 3500.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal/Labour Court, Bangalore as shown in the annexure in the Industrial Dispute between the employers in relation to the management of Bank of India and their workman, which was received by the Central Government on 28-11-2001.

[No. L-12012/184/93-IR(B-II)]

C. GANGADHARAN, Under Secy.

**ANNEXURE
BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL CUM LABOUR COURT
"SHRAM SADAN"**

III Main, III Cross, II Phase, Tumkur Road
Yeshwanthpur, Bangalore.

Dated 7th November, 2001

PRESENT

Hon'ble Shri V.N. Kulkarni, B.Com. LLB.
Presiding Officer

CGIT-Cum-Labour Court, Bangalore
C.R. No. 19/94

I Party

Sri N.S. Sambrani,
C/o Sri Anand Hegde,
Canara Bank,
Divisional Office,
JMA Building,
B.N. Nagar, Hubli-29,
Karnataka
(Advocate N.G. Phadke)

II Party

The Regional Manager,
Bank of India (Reg. Office)
Jyothi Mahal,
49, St. Mark's Road,
Bangalore-I
(Advocate-P. Sawkar)

AWARD

1. The Central Government by exercising the powers conferred by clause (d) of sub-section 2A of the Section 10 of the Industrial Disputes Act, 1947 has referred this dispute vide order No. L-12012/184/93 IR (B-II) dated 16th February, 1994 for adjudication on the following schedule:

SCHEDULE

"Whether the action of the management of Bank of India, Bangalore in dismissing Shri N.S. Sambrani, Sub-Staff from Service with effect from 17-6-1992 is justified? If not, what relief, is the workman entitled to?"

2. First party was working with the Second Party. He committed misconduct. Charge Sheet was issued and enquiry was conducted. On the basis of enquiry report he was dismissed from service and therefore, this Industrial Dispute is raised.

3. Parties appeared and filed Claim Statement and Counter respectively.

4. In order to dispose off this dispute, few facts, are necessary and they are as under:

5. It is the case of the first party that he joined the services of the Second Party on 17-2-1977 as a Subordinate Staff. He was performing all the jobs of clerical as well as manual at the instructions of the Superior Officials of the Bank. On 25-10-1990 there was a curfew declared in the Town of Hubli after a few minutes of the openings of the Bank.

6. It is the further case of the first party that one customer by name Sri Siddappa Ramappa Garwad gave Rs. 1000/- to the first party to remit the same to his SB Account No. 8743. As in practice first party entered the same in the pass book and was about to remit the same to the Cashier but there was huge Galata and the Bank was closed because of curfew.

7. It is the further case of the first party that Siddappa Ramappa Garwad was not available so he returned the amount to his brother Sri Garwad because he could not deposit the money under the circumstances explained by him. On that day even there was no time to mark the attendance by the employees of the bank. On 17-12-1990 when the said Siddappa Ramappa Garwad withdrew Rs. 100/- from his account and the first party made debit entry of Rs. 100/- in the pass book showing the cumulative balance as Rs. 8353.65 and the said Shri Garwad having come to know that an excess amount of Rs. 1000/- has been shown in the pass book, he sought proper entries to be made as per the ledger as an amount of Rs. 1000/- could not be credited to the bank because of curfew on 25-10-1990. Shri Garwad made a representation to this effect. However for some ulterior reasons, the Manager of the Second Party obtained a Sharah and managed to issue charge sheet to the first party and the enquiry was initiated. The action of the management is not correct. The finding of the enquiry of the officer is not correct. First party for these reasons and for some other reasons has prayed to pass award in his favour.

8. In the Domestic Enquiry Siddappa Ramappa Garwad was not examined. The enquiry is not correct. First party for these reasons has prayed to pass award in his favour.

9. The case of the Second Party in brief is as follows:

10. The main contention of the management is that the enquiry is correct and all the allegations made by the first party are not correct. Infact the first party unauthorisedly received a sum of Rs. 1000/- from one Siddappa Ramappa Garwad and he misappropriated the said amount. All the charges are stated in detail in the counter.

11. Regarding enquiry it is said that the enquiry is correct and the finding of the enquiry officer is proper.

12. It is the further case of the management that in the past also some minor punishments were imposed on the first party. The subordinate staff is not required to perform the job of Clerical nature.

13. It is the further case of the management that the Hubli branch would not function due to imposition of curfew in the city on a particular day. The incident of 25-10-90 is stated in para 8 of the counter.

14. It is the further case of the management that supplementary charge sheet was issued against the first party. Management for these reasons and for some other reasons has prayed to reject the reference.

15. It is seen from the order sheet dated 7th January 1999 that the learned counsel appearing for the first party filed memo conceding the validity of Domestic Enquiry and accordingly this tribunal posted the case for arguments on merit.

16. I have heard the learned counsels appearing for the parties. I have carefully perused the entire enquiry proceedings.

17. In the instant case, the first party is conceded the fairness of the enquiry. It was argued by the learned counsel appearing for the first party that infact the first party has not misappropriated any amount and the evidence recorded by the enquiry officer is not sufficient to prove the charge of misappropriation. It was also argued that on account of curfew on the relevant date the amount was not deposited.

18. I have carefully perused the enquiry proceedings and the evidence. In my opinion the charge of misappropriation is not proved properly and the fact that the bank was closed on the relevant date due to curfew at Hubli shows that the explanation given by the first party seems to be natural.

19. The learned counsel appearing for the first party has relied the following decisions :

- (1) 1984(2)SLR 359
- (2) 1984 Lab IC NOG 6
- (3) 1991(62)FLR 49 & 52 Para 15
- (4) 1994 II LLJ 312
- (5) 1991(62)FLR 104 & 109 & 110
- (6) 1984 (2) SCC 569
- (7) 1982(3) SCC 346
- (8) 1988(73)FJR 515 and 1988 (73) FJR 474
- (9) 1985 (2) SCC 136
- (10) 1982 (1) SCC 117
- (11) AIR 1978 SC 851

20. Against this the learned counsel appearing for the Second Party has relied the following decisions:

- (1) 1995(1)LLJ Kar (DB)=1995(1)LLJ 233(SB)
- (2) AIR 1998 SC 2311=1998 Lab IC 2514
- (3) 1996 Lab IC 1056 (SC)
- (4) JT 1998(9) AX37
- (5) JT 1989 (2) SC 132
- (6) 1987 Lab IC 77
- (7) AIR 1997 SC 2661
- (8) AIR 2000 SC 3028
- (9) 2000(II)LLJ 1395(SC)

(10) 2001(I)LLJ 1330(SC)

(11) 2000(II) LLJ 1367 (Kar)

(12) 1999(II) LLJ 155

21. I have read the above decisions very carefully.

22. The management in order to take the benefit of some decisions relied by it, has to prove that the finding is based on the evidence before the enquiry officer. As explained by the first party there was no complaint against him but the manager has managed to take shara and initiated enquiry. The finding of the enquiry officer must be based on clear and cogent evidence but the finding is not proper. The punishment of dismissal seems to be more harsh. In the decision reported in 2000(II) LLJ 1599 the Hon'ble Supreme Court took the view that the appropriate order should at least for reinstatement without back wages and further increment were stopped and Appeal was allowed. It was a case of misappropriation by an employee of the bank.

23. Keeping in mind the principles held in the above decisions and the material from the enquiry proceedings I am of the opinion that ends of justice will meet if the order of dismissal is set aside and the first party is reinstated without any backwages. Accordingly I proceed to pass the following Order.

ORDER

The reference is partly allowed. The management is directed to reinstate the first party with continuity of service from the date of dismissal. In the given circumstances no backwages are awarded and the first party will not be entitled to any increment for a substantial period with all cumulative consequences of such an order for a period of 5 years and the period of 5 years shall be counted from the date of publication of this order.

(Dictated to PA transcribed by her corrected and signed by me on 7th November 2001)

V.N. KULKARNI, Presiding Officer

नई दिल्ली, 29 नवम्बर, 2001

का.आ. 3501.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसूचन में, केन्द्रीय सरकार सेटुल बैंक आफ इंडिया के प्रबन्धकों के संबंध निषेधकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय कातार के पंचाय को प्रकाशित करती है, जो केन्द्रीय सरकार को 28-11-2001 को प्राप्त हुआ था।

[सं. एल-12012/359/96-आई आर (बी-II)]

सा. गंगाधर, प्रवर सचिव

New Delhi, The 29th November, 2001

S.O. 3501.—In Pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal/Labour Court, Kanpur as shown in the annexure in the Industrial Dispute between the employers in relation to the management of Central Bank of India and their workman, which was received by the Central Government on 28-11-2001.

[No. L-12012/359/96-IR(B-II)]

C. GANGADHARAN, Under Secy.

ANNEXURE

Before Sri R P Pandey Presiding Officer
Central Government Industrial Tribunal
Cum Labour Court Sarvodaya Nagar Kanpur.

Industrial Dispute No. 175 of 1997

Gyan Prakash Sagar,
S/o Ram Puri Lal Sagar,
Village Nagaria Sadat,
Post Meerganj,
District Bareilly

And

Regional Manager,
Central Bank of India,
88-Bivil Lines
Bareilly

Award

1. Central Government, Ministry of Labour, New Delhi, vide its notification no. L-12012/359/96-IR(B-II) dated 29-8-97 has referred the following dispute for adjudication to this Tribunal.

“Whether the action of the management of Central Bank of India in not reemploying Sri Gyan Prakash Sagar alias Om Prakash is legal and justified? If not to what relief the workman is entitled?”

2. The case of the concerned workman Gyan Prakash Sagar alias Om Prakash is that he was engaged as a peon on August, 88 and he worked for 288 days up to July 89. It is further alleged that in this period Sundays and holidays are to be included and by including these holidays his total number of working days comes to 304 days. It has been further alleged by the concerned workman that his services were illegally dispensed with by the management and after that several fresh hands were engaged but he was not given opportunity of re-employment. It is also alleged by the concerned workman that provision of section 25H of the Industrial disputes Act has

been breached in his case. Besides he has also relied upon circular dated 21-3-91 under which if a person had completed 240 days in a year he will be entitled for employment subject to availability of vacancy. On the basis of above allegations the workman has alleged that as there was a vacancy hence he is entitled to be reinstated in service with full back wages.

3. The management bank has filed its written statement and has denied the facts alleged by the workman in his statement of claim. It has been alleged by the management that the concerned workman was never engaged as a peon. It has been further alleged by the bank that the concerned workman was used to be engaged of and on for bringing water and that too on casual basis. He never performed the duties of a peon in the bank.

4. The workman has filed rejoinder but nothing new has been alleged.

5. Both the parties have filed documents.

6. I have gone through the record and find that in the present case this tribunal rendered its award on 24-11-98. The authorised representative for the concerned workman filed an application on 6-2-99 for setting aside the order dt. 18-11-98 and to permit the workman to adduce evidence in support of his case on which objections were invited from the management by issuing notice to them. This tribunal after hearing arguments of both the parties vide order dated 29-9-2000 set aside the order dated 18-11-98 and gave opportunity to the workman to adduce evidence in the case and for this purpose several dates were given to the workman but the concerned workman did not avail the opportunity of giving evidence. Even neither he nor his representative put in appearance in the case and ultimately the case was reserved for award.

7. Thus from the conduct and behaviour of the concerned workman it is clear that he is not interested in contesting the case. Hence the tribunal is left with no other option but to hold that the concerned workman is not entitled for any relief for want of evidence to prove his case.

8. In view of above it is held that the concerned workman is not entitled for any relief in pursuance of the reference made to this tribunal and the reference is decided against the workman.

9. Reference is answered accordingly.

R. P. PANDEY, Presiding Officer

नई दिल्ली, 3 दिसम्बर, 2001

का.आ. 3502.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसूच में, केन्द्रीय सरकार सेंट्रल बैंक ऑफ इंडिया के प्रबंधन के बीच नियोजकों और उनके कर्मचारियों के बीच, अन्तर्गत में औद्योगिक विवाद में श्रम न्यायालय-2, धनबाद के पचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 03-12-2001 को प्राप्त हुआ था।

[सं. एन-12011/285/2000-आई आर (बी-II)]

सी. गंगाधरन, अवर सचिव

New Delhi, the 3rd December, 2001

S.O. 3502.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Labour Court, ERNAKULAM as shown in the Annexure, in the industrial dispute between the employers in relation to the Central Bank of India and their workmen, received by the Central Government on 03-12-2001.

No.L-12011/285/2000-IR(B-II)

C. GANGADHARAN, Under Secy.

ANNEXURE

IN THE CENTRAL GOVERNMENT LABOUR COURT, ERNAKULAM

(IN THE LABOUR COURT, ERNAKULAM)

(Wednesday, the 26th day of September, 2001)

Present :

Smt. N. Thulasi Bai, B.A.L.L.B.,

Presiding Officer

Industrial Dispute No. 7 of 2001 (Central)

Between

The Central Bank of India, Regional Office, GEO Towers, Paljimmukku, Kochi-16.

And

The workman of the above concern represented by the President,

Central Bank of India Staff Union (Kerala) 41/1757, Paramara Shopping Centre, Kochi-682 018.

Representations :

Sri V.V. Sidharthan,

Advocate,

Ernakulam.

For Management

AWARD

This reference was made by the Central Government as per Order No. L-12011/285/2000/IR (B-II) dated 30-3-2001. The dispute referred is between the Central Bank of India and its workman Smt. M. Bhavani. The dispute referred is "whether the action of the management of Central Bank of India in not considering the request of Smt. M. Bhavani, Clerk for promotion and posting to a place of her choice was justified? If not, what relief the concerned workman is entitled to?" In the reference the workman is represented by the President, Central Bank of India Staff Union (Kerala), Paramara Shopping Centre, Kochi.

2. On receipt of notice issued from this court the management appeared through counsel. The union refused to accept the notice issued from this court, thereby this court is satisfied that there was sufficient service of notice. Though the case was posted for appearance of the Union it did not appear. So I am satisfied that the union is not interested in prosecuting the reference thereby it can be found that there is no pending dispute to be adjudicated by this court.

In the result, an award is passed finding that there is no pending industrial dispute between the parties to be adjudicated by this court.

Ernakulam, N. THULASI BAI, Presiding Officer
26-9-2001.

नई दिल्ली, 3 दिसम्बर, 2001

का.आ. 3503.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसूच में, केन्द्रीय सरकार सेंट्रल बैंक ऑफ इंडिया के प्रबंधन के बीच नियोजकों और उनके कर्मचारियों के बीच, अन्तर्गत में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण/श्रम न्यायालय-2, धनबाद के पचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 29-11-01 को प्राप्त हुआ था।

[सं. एन-12012/84/95-आई आर (बी-II)]

सी. गंगाधरन, अवर सचिव

New Delhi, the 03rd December, 2001

S.O. 3503.— In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Government Industrial Tribunal/Labour Court-II, Dhanbad as shown in the annexure in the Industrial Dispute between the employers in relation to the management of Central Bank of India and their workman, which was received by the Central Government on 29-11-01.

[No. L-12012/84/95 IR(B-II)]

C. GANGADHARAN, Under Secy.

ANNEXURE
BEFORE THE CENTRAL GOVERNMENT
TRIBUNAL (No. 2) AT DHANBAD.
PRESENT

Shri B. Biswas,
Presiding Officer.

In the matter of an Industrial Dispute under Section 10(1)(d) of the I.D. Act, 1947

REFERENCE NO. 95 OF 1995

PARTIES : Employeés in relation to the management of Central Bank of India, Patna and their workman.

APPEARANCES :

On behalf of the workman : Shri Chandrika Prasad,
Advocate.

On behalf of the employers : Shri B. Joshi,
Advocate.

State : Jharkhand Industry : Banking.

Dated, Dhanbad, the 29th Nov., 2001.

AWARD

The Govt. of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-12012/84/95-I.R.(B-2), dated, the 17-7-1995.

SCHEDULE

“Whether the action of the management of Central Bank of India, Patna in dismissing Sri Bhola Sati, Feon from service w.e.f. 12-11-93 is legal and justified? If not, what relief is the said workman entitled to?”

2. In course of hearing of the instant reference a petition filed by the management dt. 26-7-2001 on the ground of maintainability of reference case was taken up for hearing in presence of both sides. In course of hearing Learned Advocate for the management submitted that over the self same issue the concerned workman preferred a Writ Petition before the Hon'ble High Court, Patna. Learned Advocate submitted that Hon'ble High Court after hearing both sides dismissed the Writ Petition filed by the concerned workman with the observation that the petitioner is not entitled to get any relief in the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India. It has been submitted by the Learned Advocate for the management referring a decision reported in 2000(86)FLR 682 that the concerned workman is debarred from agitating the same issue again before other forum as the matter has already been decided by the Hon'ble High Court in disposing of the Writ Petition. In the decision referred to above His Lordship of the Hon'ble Delhi

High Court observed to the effect that when more than one forum are available to the petitioner to challenge a particular order and he elects to choose one forum, thereafter he is precluded from choosing other forum for same cause of action. This is popularly known as ‘Doctrine of Election’ which is based on the maxim “that a person cannot approbate or reprobate at the same time.” This doctrine has been applied in India also. Once the petitioner challenged the order of punishment by filing Writ petition and the said writ petition was dismissed the effect of that is to conclude the matter inter-parties. The matter having thus concluded cannot be agitated again before other forum stating that the ground taken now is different. As already pointed out, it was for the petitioner to choose one of the remedies available before him. Once he opted for a particular remedy, he did so with all the limitations attached to the said remedy. It was his own volition without any imposition. Learned Advocate for the concerned workman on the contrary submitted that during the pendency of the reference case the concerned workman preferred a Writ Petition. He further submitted that the Hon'ble High Court as did not dispose of the Writ Petition on merit there is no bar on the part of this Tribunal to take up hearing of the instant case. He submitted that the reference case is absolutely maintainable in the eye of law in view of the observation made by the Hon'ble High Court.

3. It is clear in view of the submission of both sides that during pendency of the reference case the concerned workman preferred a Writ Petition before the Hon'ble High Court, Patna. The order of the Hon'ble High Court speaks clearly that the said Writ Petition was heard on merit and dismissed. If the attitude of the concerned workman is taken into consideration it will be seen that he preferred two forum with a view to get his relief. If the decision of the Hon'ble High Court, Delhi referred to above is taken into consideration it will expose clearly that more than one forum is available to challenge a particular order and when he elects to choose one forum, thereafter he is precluded from choosing other forum for same cause of action. On the ground of doctrine of election which is based on the maxim “that a person cannot approbate or reprobate at the same time”. Therefore, if the decision of the Hon'ble Court is taken into consideration there is sufficient scope to say that the concerned workman is not entitled to get privilege of another forum when he has failed to get his relief from other forum. Knowing fully well of this fact the concerned workman when failed to get relief at one forum has come forward to get his relief here. Considering all the facts and circumstances, I, therefore, hold that submission extended by the Learned Advocate for the management in view of the decision referred to above can

not be ignored. I, therefore, hold that the instant case is not maintainable in the eye of law. An Award is passed accordingly.

B. BSWAS, Presiding Officer

नई दिल्ली, 7 दिसम्बर, 2001

का.आ. 3504.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बैंक आफ बरोडा के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारियों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/अस न्यायालय हैदराबाद के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 29-11-01 को प्राप्त हुआ था।

[सं.एल-12025/7/2001-आई आर(बी-II)]

सी. गंगाधरन, अवर सचिव

New Delhi, the 7th December, 2001

S.O.3504.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Government Industrial Tribunal/Labour Court, Hyderabad as shown in the annexure in the Industrial Dispute between the employers in relation to the management of Bank of Baroda and their workman, which was received by the Central Government on 29-11-2001.

[No. L-12025/7/2001-IR(B-II)]

C. GANGADHARAN, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT HYDERABAD

Present

Shri E. Ismail

Presiding Officer

Dated 31st October, 2001

INDUSTRIAL DISPUTE NO 9/2001

Between:

Bank of Baroda Employees Union,

Khairatabad Branch,

Saifabad, Hyderabad

....Petitioner

AND

The Regional Manager,

Bank of Baroda Regional Office,

AP-I, Basheer Bagh,

Hyderabad

....Respondent

Appearances:

For the Petitioner : Shri K. Rama Reddy, Advocate

For the Respondent : Shri T. Vishwanadha Sastry,

Advocate

AWARD

This is a reference under section 10(I)(d) of the I.D. Act, 1947. The reference is :

"Whether the action of the management of Bank of Baroda, Guntur to impose the punishment of withdrawal of special allowance and stoppage of one increment with cumulative effect on Shri P. Ramaiah, Head Cashier, Bank of Baroda, Guntur Branch is legal and justified? If not, what relief is the applicant entitled to?"

2. The following claim statement was filed that Sri P. Ramaiah is working with the respondent Bank since 1979. The respondent bank charge sheeted Sri P. Ramaiah for certain alleged actions and has awarded huge punishment. He was charge sheeted on 8-8-1997 of various charges like indecent behaviour, willful in subordination, willful slowing down, misbehaviour towards customers, negligence of work and negligence in performing duties, breach of rules and instructions for running cash department collecting money from customers, failing to show proper courtesy and doing acts prejudicial to the interest of the Bank that enquiry was conducted which was vitiated on various grounds and the charges were not proved. It is alleged that there was a cash shortage of Rs. 26,000 and he made this up by a cheque of a customer for Rs 26,000. Actually it is not so, it was paid to the customer. That he has put in 22 years of service and he has been discharging his duties diligently. He was unnecessarily held guilty and it is prayed that the orders passed by disciplinary/appellate authority may be quashed.

3. A counter was filed stating that the charges were specific & an enquiry was conducted. Sri P. Ramaiah was given ample opportunity to put forward his case before the enquiry officer. The charges were proved keeping in view of the principle of natural justice. The petitioner is making lame excuse to cover his lapse that refer to cash shortage of Rs. 26,000 but the finding of the Enquiry Officer is not perverse. Hence, the petitioner is not entitled to any relief.

4. This Tribunal by an order dated 28th August, 2001 held that the domestic enquiry held is valid. Once having held so, the only question that arises is whether the punishment awarded is commensurate with the guilt of the petitioner. The Learned Counsel for the petitioner argued that the petitioner is still continued as Chief Cashier. If really the Bank had no confidence in the petitioner then they should not have taken the work from him of Cashier. Charges are framed against the employee, when the other Cashier had cash shortage. So that main charge itself does not pertain to him. The charge sheet is not specific and totally vague. The Disciplinary Authority was determine to award a punishment

to the petitioner and hence specific enquiry officer named in the charge sheet itself. Therefore the same may be set aside.

5. The Learned Counsel for the respondent argued that witnesses were examined in the presence of the petitioner and the petitioner had a defence representative Mr. K. Ram Reddy. Witness have been cross-examined, the charged employee not only examined himself but 3 more witnesses, hence, the charges are proved. And therefore, he is not entitled for any relief.

6. It may be seen that in the enquiry about the shortage of cash it was deposed in the examination of Mr. Raja Rao, MW3 that the shortage was met by debiting suspense amount. However, he himself says that Sri Ramaiah is honest and sincere worker. And about the shortage of Rs. 26 000 it has been made up. Therefore, some misbehaviour is proved. The department has already taken a lenient view and there was stoppage of one increment with cumulative effect. I am sure that this punishment is required so that he will be careful in future. However, withdrawal of special allowance beyond a certain period is not desirable because he is still discharging the duties of the Head Cashier. Therefore, the reference is ordered as follows: The stoppage of special allowance paid to the Head Cashier Sri P. Ramaiah of the Bank of Baroda, Guntur Branch is restricted till June, 2002 and the Bank shall pay Ramaiah the Head Cashier the special allowance from 1st July, 2002. However, the stoppage of one increment with cumulative effect is hereby confirmed. Reference ordered accordingly, transmit

Dictated to Kum. K. Phani Gowri, Personal Assistant transcribed by her corrected by me on this 31st day of October 2001.

E. ISMAIL, Presiding Officer
Appendix of evidence

Witness examined for the Petitioner	Witness examined for the Respondent
NIL	NIL

Document marked for the Petitioner/Union
NIL

Document marked for the Petitioner/Union
NIL

Presiding Officer
CGIT cum Labour Court, Hyderabad

नई दिल्ली, 3 दिसम्बर, 2001

का.आ. 3505—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार इण्डियन एयर लाईन्स के प्रबंधन के संबंध निर्वाहकों और उनके कर्मचारियों के बीच, शत्रुता में निर्विष्ट

औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक/अधिवारण चेन्नाई के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 29-11-2001 को प्राप्त हुआ था।

[सं. एन-20030/18/95-आईआर (सी-1)

एन-11012/1/97-आईआर (सी-1)

एन-11012/2/97-आईआर (सी-1)]

एम. एस. गुप्ता, अवसर सचिव

New Delhi, the 3rd December, 2001

S.O. 3505.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Chennai as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Indian Airlines Ltd. and their workman, which was received by the Central Government on 29-11-2001.

[No. L-20030/18/95 IR (C-I)

No. L-11012/1/97 IR (C-1)

No. L-11012/2/97 IR(C-I)]

S. S. GUPTA, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL
TRIBUNAL-CUM LABOUR COURT, CHENNAI

Monday, the 26th November, 2001

Present : K. KARTHIKEYAN,

Presiding Officer

INDUSTRIAL DISPUTE NOS. 412, 492, 493/2001
(Tamil Nadu State Industrial Dispute Nos. 105/96,
61 & 62/98).

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between Sri M. V. Anantha Subramanian, D. Kumar Christopher and S. John and the Management of Indian Airlines Ltd. Chennai).

BETWEEN

1. Sri M.V. Anantha Subramanian (I.D. No. 105/96)
2. Sri D. Kumar Christopher (I.D. No. 61/98)
3. Sri S. John (I.D. No. 62/98) 1 Party/Workman

AND

1. The Regional Director (I.D. No. 105/96)
2. The Commercial Manager (I.D. No. 61/98)
3. The Managing Director (I.D. No. 62/98)

Indian Airlines Ltd. Chennai : II Party/Management

Appearance:

For the Workmen 1 to 3 : M/s. Vijay Narayan &
R. Parthiban, Advocates

For the Management : M/s. N.G.R. Prasad,
S. Vaidyanathan, Advocates

The Govt. of India, Ministry of Labour in exercise of powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of Industrial Dispute Act, 1947 (14 of 1947), have referred the above mentioned three Industrial Disputes for adjudication vide Order Nos. L-20030/18/95-IR (Coal-I) dated 28-11-1996, L-11012/1/97-IR(Coal-I) dated 06-03-1998, and L-11012/2/97-IR (Coal-I) dated 06-03-1998. respectively.

These references have been made earlier to the Tamil Nadu State Industrial Tribunal, where the same were taken on file as I.D. Nos. 105/96, 61/98 and 62/98 respectively. When the matters were pending enquiry in that Tribunal, the Govt. of India, Ministry of Labour was pleased to order transfer of these cases from that Tribunal to this Tribunal for adjudication. On receipt of records from that Tribunal these cases have been taken on file as I.D. Nos. 412/2001, 492/2001 and 493/2001 respectively and notices were sent to the counsel on record on either side, informing them about the transfer of these cases to this Tribunal, with a direction to appear before this Tribunal on 23-02-2001, 05-03-2001 and 05-03-2001 with their respective parties. On receipt of notice from this Tribunal, the counsel on either side present with their respective parties and prosecuted these cases further.

When the matter came up before me for final hearing on 23-10-2001, upon perusing the Claim Statements, Counter Statements, the other material papers on record, the documentary evidence let in on either side, upon hearing the arguments advanced by the learned counsel on either side and this matter having stood over till this date for consideration, this Tribunal has passed the following:

COMMON AWARD

The common industrial Dispute referred to in the above orders of references by the Central Govt. for adjudication by this Tribunal is as follows:

1. "Whether the action of the Management of M/s. Indian Airlines Ltd., Chennai, in terminating/dismissing the services of Sri M.V. Anantha Subramanian from service w.e.f. 20-8-92 is fair and justified? If not, to what relief the said workman is entitled?"
2. "Whether the action of the Management of M/s. Indian Airlines Ltd., Chennai, in terminating the services of Sri D. Kumar Christopher, ex-loader w.e.f. 21-8-1992 is justified? If not, to what relief the workman is entitled?"
3. "Whether the action of the Management of M/s. Indian Airlines Ltd., Chennai, in terminating the services of Sri S. John, General Duty Worker in Staff Canteen w.e.f. 21-8-1992 is justified? If not, to what relief workman is entitled?"

2. The I Party/Claimants in all these industrial disputes (hereinafter refer to as Petitioners) have stated their respective industrial disputes in their Claim Statements. Those averments in common are briefly as follows:

The Petitioners S/Sri M.V. Anantha Subramanian, D. Kumar Christopher and S. John employed in the II Party/Management, Indian Airlines Ltd. Chennai as Store Assistant, Loader and Canteen Supplier (General Duty worker) respectively. On 14-12-1886, they were arrested for the charges under the Customs Act. On 15-12-1886, the Customs Department filed a complaint before the Court of Additional Chief Metropolitan Magistrate, stating that these petitioners had attempted to smuggle three suitcases containing synthetic stones and they had confessed the crime of attempting to smuggle those three suitcases. They were produced before the Magistrate. The Petitioners had complained before him that they had not made any confession but was forced to make statements by using force, violence of third degree method. The Magistrate personally inspected the bodies of the Petitioners and found marks which suggested that third degree methods of violence used and recorded the same. On 17-12-1886, the Petitioners were placed under suspension in connection with that incident and thereafter on 20-2-87, charge memos were issued to them stating that duty they had committed misconduct under the Standing Orders 16(1)(4) and (6) of the Respondent Corporation namely failure to maintain integrity and devotion to duty, theft, fraud, dishonesty in connection with the business or property of the Corporation and breach of Standing Orders. The Petitioners were asked to submit their explanation for which they asked for time. The Respondent did not give sufficient time for the purpose of submitting their explanation. In fact, a number of representations were made to the Enquiry Officer as well as to the Disciplinary Authority to the effect that the Petitioners should be permitted to avail the service of a Legal Practitioner, since the Presenting Officer was a person who was highly trained in law and therefore, the principles of natural justice would require that the delinquent employees should also have the service of a Legal Practitioner. Instead of the Disciplinary Authority deciding the issue, the Enquiry Officer himself has rejected their request.

3. The Petitioner Sri M.V. Anantha Subramanian for the charge sheet, he received replied on 10-3-1987 requesting time till 11-4-1987. In the meantime, he was detained under COFEPOSA on 31-3-87. On 22-4-87 he informed the Respondent that he had been detained under COFEPOSA, and therefore, could not reply to the charge sheet. He requested further proceedings may be kept in abeyance.

He had also filed a petition in High Court of Madras challenging his detention and that detention petition ultimately to be heard by the High Court on 15-3-88. As the Petitioner was under detention, he was unable to defend himself in the domestic enquiry. On 11-4-88, the Respondent issued a letter to the Petitioner asking him to file written statement to the charge sheet. On 29-4-88 and 20-7-88, he wrote to the Respondent calling upon them to furnish the Standing Orders and has informed them that the charges levelled against him were identical to the one made in the Criminal Complaint and hence the domestic enquiry may be kept in abeyance during the pendency of the criminal proceedings. The Respondent did not take further steps in the matter, and therefore, the Petitioner was under the bonafide impression that the Respondent had acceded to his request of not to proceed with the domestic enquiry in view of the criminal proceedings. On 9-1-89, he requested permission to leave station from 10-1-89 to 31-1-89 in order to visit Bangalore and Bombay. The Petitioner received a letter dated 17-1-89 alleging that he had failed to personally appear at the hearing held on 13-1-89. He also received a letter dated 17-1-89 asking him to attend the enquiry on 29-1-89. But both the letters were received after 31-1-89 since the Petitioner was in Bombay. He has also received a letter dated 6-2-89 alleging that he had failed to attend the hearing on 31-1-89. The appointment of the Enquiry Officer and the Presenting Officer was also conveyed by this letter. On 22-2-89, the Petitioner made a representation that since the criminal case was pending the domestic enquiry should be kept in abeyance. He received a letter dated 23-2-89 from the first Enquiry Officer Sri K. Gopalakrishnan stating that the enquiry was fixed on 1-3-89. From 1-3-89 to 8-6-90 ten sittings took place under the first Enquiry Officer with no progress. Meanwhile, the Petitioner, had also filed a Writ Petition before the High Court of Madras to challenge the enquiry proceedings on the ground that the criminal case was pending and on dismissal of the Writ petition and Writ Appeal No. 943/89, the Petitioner approached the Supreme Court of India and by order dated 20-12-89, further proceedings were stayed. Eventually, an order was passed on 15-11-90 holding that till the statement of the petitioner was recorded in the criminal case, the disciplinary proceedings should not be proceeded with. On 15-7-91, the Respondent wrote a letter to the Petitioner stating that the first Enquiry Officer had retired and in his place Sri Janardhanam was appointed as Enquiry Officer. However, the Presenting Officer was retained. On 3-2-92, the second Enquiry Officer issued a letter stating that the enquiry would be held on 14-3-92. On 9-3-92 the petitioner made a representation to the Enquiry

Officer requesting permission to have a friend from outside or an advocate to assist him in the domestic enquiry in view of his inability to obtain a friend from within the organisation and also in view of serious nature of the charges involved. On 13-3-92 the Petitioner was admitted in the Vijaya Hospital for second heart attack. On 14-3-92 notwithstanding the hospitalisation of the Petitioner, the enquiry commenced ex parte. MWI Sri J. Mohanraj Inspector of Police (CBI) was examined by the Presiding Officer. In the circumstances, the Petitioner's sister sent an express telegram to the Enquiry Officer informing him of the hospitalisation and requested for adjournment till 16-3-92. She also informed that the Medical Officer of the Respondent Corporation, Dr. Jaikumar was present on 13-3-92 during his brother's admission and requested for adjournment for four weeks. Dr. Badrinath, Deputy Chief Medical Officer of the Respondent Corporation sent a slip to the Vijaya Hospital regularising the Petitioner's hospitalisation. On 18-3-92, the Petitioner's sister again wrote to the Disciplinary Authority informing him of the Petitioner's hospitalisation and requested the assistance of a friend or an advocate for her brother in the domestic enquiry and also made a request for adjourning of the proceedings. On 20-3-92, the enquiry was adjourned to 3-4-92. On 3-4-92, the second Enquiry Officer acknowledged the hospitalisation and mentioned that a fresh date will be fixed for the enquiry. The Petitioner submitted a letter requesting the assistance of an advocate in the proceedings of the domestic enquiry. Rejecting his request for the assistance of an advocate, in the proceedings of the domestic enquiry, the enquiry was held on 10-4-92 and the Photostat copy of the Mahazar was presented and taken as Exhibit during the examination of MW2. On 11-4-92 also the Petitioner submitted a letter to the Manager, Stores and Purchase through the Enquiry Officer requesting for an assistance of an advocate. On 20-4-92, the Petitioner further stated that he has not yet received a reply to his letter dated 11-4-92 regarding his request for an assistance of an advocate and therefore, he expressed his inability to cross examine MW3. On 21-4-92 since the Petitioner was sick, he could not attend the enquiry submitted a letter through a bearer. On 22-4-92, the Petitioner submitted another letter along with the discharge summary from Dr. Thomas George.

4. During the course of the enquiry, the Petitioner, Sri D. Kumar Christopher submitted two medical certificates dated 30-3-92 and 31-3-92. But in spite of the submission of these medical certificates, the enquiry was not adjourned and even the enquiry report does not refer to the fact that the Petitioner sought for an adjournment on the ground of illness and was refused.

5. At the hearing of the enquiry on 11-5-92, the Petitioner Sri S. John alleged in his Claim Statement that his co-employee Sri A.J. Elisha, who was stationed at Hyderabad sent a fax message that he could not attend the enquiry on 11-5-92 due to unforeseen circumstances and also requested postponement of the enquiry to 27-5-92. That request was rejected and the enquiry proceeded. The Petitioner did not understand English and was not in a position either to read or write English and therefore, he requested that all the proceedings should be conducted in Tamil. However, the proceedings were conducted in English and after the hearing the proceedings were translated to Tamil, but obviously this would not meet the ends of justice, since during the course of the proceedings the Petitioner was not able to effectively participate in the proceedings.

6. The Enquiry Officer has submitted his report in which he held that the charges were proved against the Petitioners. The report of the Enquiry Officer is perverse and is not born out of evidence on record. There was no legally acceptable evidence to prove the charges framed against the Petitioners. The entire enquiry was held in gross violations of principles of natural justice and the Petitioners were deprived of reasonable opportunity to defend their respective cases. The enquiry was farce and therefore, domestic enquiry is liable to be set aside. The non-payment of subsistence allowance has totally deprived the Petitioners of effectively contesting the proceedings and therefore, the Petitioners have been seriously handicapped and prejudice. This also vitiate the entire proceedings taken against the Petitioners. The Management deliberately fixed the personal hearing for the Petitioner Sri M. V. Anantha Subramanian knowing fully well that he was not in the station on that day. The Petitioner Sri S. John was issued with second show cause notice, along with copy of the report of the Enquiry Officer, which was translated in Tamil. Since the enquiry report was in English, the Petitioner was not in a position to make an effective representation when he was called upon to submit his representation. For the second show cause notice issued to the Petitioner Sri D. Kumar Christopher, he sought for time to submit his representation. But, without granting time, the Petitioner was ordered to be removed from service. The statutory appeals preferred by the Petitioners under the Standing Order 35 were also rejected. After the conciliation proceedings were failed, these references have been made by the Ministry for adjudication of these industrial disputes by this Hon'ble Tribunal. For all these reasons, it is prayed that this Hon'ble Tribunal may be pleased to set aside the orders of removal of the Petitioners from service and direct the Respondent/Management to reinstate them in service with back wages, continuity of service and all attendant benefits.

7. The II Party/Management Indian Airlines Ltd. Southern Region, Chennai has filed separate Counter Statements in all the three cases. The averments made in those Counter Statements in common are briefly as follows:

The II Party/Management (hereinafter refers to as Respondent) admits that all the three Petitioners were working under the Respondent/Management as they have pleaded in their respective Claim Statements. It was also admitted that they were arrested under the Customs Act on 14-12-1986. They were involved in a case of substituting three-inbond suitcases which arrived from Singapore and was detected by the Customs and CBI. On examination it was found that the suitcases removed by these employees contained uncut synthetic stones worth over Rs. 20 lacs and the substitute-suitcases contained old news papers etc. They were kept under judicial custody under the Customs Act from 15-12-86 to 19-1-87. They were subsequently detained under COFEPOSA from 1-4-87 to 15-2-88. On 28-11-95, the Petitioners were convicted and sentenced to undergo rigorous imprisonment for one year and fine of Rs.1,000/ each and in default of such payment to undergo further simple imprisonment for a period of six months by the Judicial Magistrate, Saidapet, Chennai. The Petitioners were placed under suspension on 15-12-86 and subsequently charge sheeted vide letter dated 2-3-87 for committing misconduct under the Standing Orders. They filed Writ Petitions before the High Court of Madras for stay of disciplinary proceedings on the plea that criminal proceedings are pending against them. The Hon'ble High Court passed a common order dated 30-10-89 dismissing all the three Writ Petitions. The petitioner Sri M.V. Anantha Subramanian preferred a Writ Appeal No. 943 of 1989 before the Division Bench, which was also dismissed on 18-11-1989.

Then he obtained stay from the Hon'ble Supreme Court on 15-11-90 in civil Appeal No. 5353 of 1990 as a result of which the enquiry had to be adjourned. The stay was subsequently vacated on 28-2-92. Thereafter, a joint enquiry was conducted and the Petitioners were afforded full opportunity to defend their case. On the basis of the evidence adduced during the enquiry, the Enquiry Officer came to the conclusion that the Petitioners were guilty of the charges levelled against them. Agreeing with the findings of the Enquiry Officer, the competent authority awarded the punishment of dismissal from service without benefit in full w.e.f. 21-8-1992.

8. The further averments made by the Respondent/Management in their Counter Statement filed in respect of the case of the Petitioner Sri M. V. Anantha Subramanian that the petitioner/workman had been adopting dilatory tactics to prolong the enquiry and the delay was entirely attributable to

him. Even after his release from COFEPOS A detention in the month of April, 1988, when he was asked to submit his written statement of defence in reply to the charge sheet, he requested for time and the same was granted upto 19-6-88. For his request, for the copy of the standing orders he was advised to contact the office for perusal of the same. On his further request for that copy of the standing orders, it was furnished to him under letter dated 28-6-88 and was advised to send his written statement of defence within twenty one days and finally on 20-7-88 he submitted his reply denying the charges and requested to keep the disciplinary proceedings in abeyance, till the criminal case against him was disposed of. He had not attended the personal hearing on the date fixed, but he left the station without obtaining permission in writing. The enquiry was conducted fairly and properly after considering the Enquiry Officer's report and his findings, and the Petitioner's reply to the show cause notice, the competent authority dismissed him from service. Before the National Industrial Tribunal, Bombay an application under section 33(2B) of Industrial Disputes Act, 1947 was filed and the Hon'ble Tribunal granted approval for the action taken against the petitioner/workman. The Presenting Officer was not a legally trained person. Hence, there is no justification for allowing the request of the petitioner/workman for having the assistance of a lawyer during the enquiry. As per rules, since the delay was attributable to the Petitioner he was only entitled to 25% of the wages as subsistence allowance nevertheless, he was paid 50% of the wages as subsistence allowance to him. In view of the gravity of the proved misconduct of the Petitioner, the punishment awarded to him is only proportionate and meets the ends of justice. There is no scope for interference under section 11A of the Industrial Disputes Act, 1947. Having regard to the nature of the charges framed and established, in any event, if this Tribunal holding that the enquiry is vitiated the Respondent may be given an opportunity to lead fresh evidence to establish the charges before this Tribunal. The Respondent having lost confidence in the Petitioners, and in any event, they should not be reinstated in service. Hence, an award may be passed dismissing the claim of the Petitioners. Similar averments have been made in the Counter Statement filed by the Respondent/Management in the other two cases and further alleged that the Respondent Airlines cannot employ the petitioners who have been convicted by the Judicial Magistrate, Saidapet, Chennai, to one year along with fine for an offence under COFEPOSA which amounts to criminal conviction involving moral turpitude and the Respondent having lost confidence in them they should not be reinstated in service.

9. When all these three matters were taken up for enquiry, a joint memo has been filed by the coun-

sel on either side for the joint enquiry of all these three cases. Documents have been filed by consent of the counsel on either side and marked as Ex.W1 to W3 and M1 to M28 as common exhibits for all these three cases.

10. The common points for my consideration are—

1. "Whether the domestic enquiry conducted by the Respondent/Management against the Petitioners for the alleged misconduct in the charge memo dated 20-2-87 is not fair, proper and in violation of principles of natural justice?"
2. Whether the action of the Respondent/Management against the Petitioners by dismissing them from service is justified? If not to what relief they are entitled?

Points :—

It is alleged in the Claim Statements of all these three Petitioners that a joint domestic enquiry conducted by the Respondent/Management against all these three Petitioners is not fair and proper following the principles of natural justice and that these Petitioners were denied fair chance of put forth their defence effectively. Ex.W1 is the typed copy of the common charge sheet dated 20-2-1987 issued to all the three Petitioners. Ex. M9 is the xerox copy of the Ex.W1. Ex.M4 is the xerox copy of the Mahazar dated 14-12-1986. On the basis of that Mahazar charge memos were issued to these Petitioners separately. In the charge sheet issued to all these Petitioners it is alleged that on the early hours of 14-12-86 all the three substituted three INBOND cargo in transit kept ready in trolley for being sent to Bangalore by Flight IC-513 of 14-12-86 and thereafter removed them out of airlines house premises. They were caught red handed by the CBI and Customs Officials when the three baggages were loaded in a taxi bearing registration No. TMC 3398 parked in front of INGATE of Airlines House with the intention of taking them out of I.A. premises. The above three pieces from Singapore were received from Air India and AWB No. 09849242531 and was taken over on 13-12-86 for transshipment to Bangalore. The three suitcases when opened were found to contain valuable uncut synthetic stones. The substituted suitcases were also opened and found to contain old English magazines. It is further alleged in the charge sheet that the said act of misconduct committed by them is established by constitute breach of Clause 1 and misconduct within the meaning of Clause 16(4) and 16(8) of Standing Orders (Regulations concerning Discipline and Appeals) Applicable to them.

11. It is the contention of the Petitioners that they have not given consent to conduct the joint enquiry against all the three Petitioners as charge sheeted employees. It is the contention of the learned counsel for the Respondent/Management that these petitioners have not objected to the joint trial at the time of enquiry. Further no prejudice is caused to them by a joint trial conducted by the Management as domestic enquiry. As it is seen from the charge sheets issued to the Petitioners that all the three Petitioners had joined together for the commission of the alleged misconduct, which have been described as misconduct within the meaning of clause 16(4) of the Standing Orders (Regulations concerning Discipline and Appeals). The misconduct under Clause 16(4) has been mentioned as theft, fraud and dishonesty in connection with the business or property of the Corporation. Since it is alleged in the charge memo that all the three Petitioners were employees of Indian Airlines have jointly committed the misconduct, a joint enquiry has been conducted against these Petitioners by the Management. From the perusal of the records available in this case, it is seen that at no point of time, any one of the Petitioners had raised any objection for such a joint enquiry. Nothing has been stated earlier before the Enquiry Officer or even now as to how they were prejudiced by such joint enquiry. Under such circumstances, the contention of the learned counsel for the Petitioners that a joint enquiry has been conducted without the consent of these Petitioners cannot be considered as an acceptable ground for the stand that the enquiry conducted is not fair and proper.

12. The next contention raised by the learned counsel for the Petitioners is that when the Petitioner asked time for filing reply to the charge, time was granted for the first time but it was refused when it was asked for the second time and the enquiry was straightaway conducted for the allegations against the Petitioners in the charge sheet. A perusal of the enquiry proceedings clearly shows that sufficient time was granted to the charge sheeted employees for their reply to the charge sheet and the Petitioner M.V. Anantha Subramanian had submitted reply only on 20-7-1988 for the charge sheet dated 20-2-1987. The Petitioner Mr. D. Kumar Christopher asked for Tamil version of the charge sheet and his request was acceded by the Management and Tamil version for the charge sheet was supplied to him and inspite of opportunities were given to him as per his letters dated 23-2-88, 11-4-88, 30-12-88 and 12-01-89 he had not chosen to file his written statement of defence in reply to the charge sheet and then only the Management had proposed to conduct an enquiry. Like that, the Petitioner S. John was also furnished Tamil version of the charge sheet as per

his request along with the Standing Orders and inspite of ample opportunities were given to him as per his letters dated 20-2-88, 15-4-88, 30-12-88 and 12-1-89, he has not chosen to reply the charge sheet and then only the Management had proceeded to conduct the enquiry. From all these things, it is seen that the contention of the learned counsel for the Petitioner that the Management has not granted sufficient time to the Petitioner for submitting the reply to the charge sheet is incorrect and on that ground it cannot be said that the enquiry was not conducted in a fair and proper manner.

13. The next contention raised by the learned counsel for the Petitioner is that charge sheeted employees had requested for an assistance of a lawyer and the Petitioner Mr. John was only able to represent for all the hearings but was not able to get defence assistance till 10-5-92. The learned counsel has relied on the decision of the High Court of Madras in a case reported as 1992—2 LLM 811 Indian Airlines Corporation and Another Vs. M. Sundaram. In that case, the High Court was pleased to hold that “when the Management availing the services of a person legally qualified and well trained in conducting disciplinary proceedings as Presenting Officer, denial for an assistance of a legal practitioner to the employee inspite of his request is a violation of principles of natural justice.” It is contended in the Counter Statement itself that as clarified by the Enquiry Officer the Presenting Officer was only a graduate in Commerce and he did not possess a law degree nor he was legally trained. So the present case cannot be equated with the cited case mentioned above. Under such circumstances it cannot be said that the enquiry conducted against these Petitioners was not proper. So, the decision in the cited charge sheeted employee is not applicable to this case. Further, a perusal of Ex. M1 enquiry proceedings and EX. M2 the enquiry findings clearly show that inspite of ample opportunities were given to the Petitioners to effectively defend themselves in the domestic enquiry, they only were adopting dilatory tactics in order to prolong the enquiry either by litigation or by seeking adjournments after attending the enquiry. Further, it is seen that the Enquiry Officer has permitted the Petitioners to avail the assistance of defence assistance of their choice, but the Petitioners only have not availed that opportunity given by the Enquiry Officer properly. Further, it is seen that Petitioner M.V. Anantha Subramanian had effectively cross examined the witnesses in the enquiry. So, it cannot be said that the Petitioners were very much prejudiced on this aspect. It is seen from Ex. M10, xerox copy of the order passed by the Supreme Court of India dated 28-2-92 in a petition preferred by the Petitioner Sri M.V. Anantha Subramanian that the Supreme Court was pleased to pass an order stating that

“it will be open to the Indian Airlines to proceed with the departmental proceedings notwithstanding the pendency of the criminal trial and notwithstanding their earlier order dated 15-11-90.” From this it is seen that in the guise of having taken steps before the Courts, the Petitioner Mr. M. V. Anantha Subramanian was bent upon to drag on the proceedings with all sorts of dilatory tactics. Ex M11 is the xerox copy of the order passed by the Disciplinary Authority stating that he is concurring with the findings of Enquiry Officer and his report. Along with that order, the copy of the findings of the Enquiry Officer was enclosed and the Petitioner was asked to give his reply for the proposed punishment on dismissal from service without benefits in full. Ex.M 13 is the xerox copy of the Approval Application filed by the Management for passing an order to approve the action taken against the Petitioner/Workman Sri M.V. Anantha Subramanian by dismissing him from service. In that petition, it is clearly awarded that an enquiry into the charges was ordered and it was conducted after giving adequate opportunity to the opposite party in the enquiry and the opposite party attended the enquiry and the Enquiry Officer has submitted his report finding the opposite party guilty of the charge and the competent authority concurring with the findings of the Enquiry Officer has issued a show cause notice proposing the punishment of dismissal from service without benefits in full. The competent authority after considering fully the submissions made by the Petitioner Sri M.V. Anantha Subramanian passed an order dated 20-8-92 dismissing him from service. That order has been marked as Ex. W2 (typed copy). Further, it is stated in that order that Indian Airlines Management has passed an order dismissing the Petitioner from service, in accordance with the Standing Order applicable to him. A perusal of the exhibits filed on the side of the Management as well as the petitioners clearly show that what it is alleged before the National Tribunal, Bombay in the Approval Application by the Respondent/Management is correct. Ex. M15 is the xerox copy of the letter dated 1st September, 1994 enclosing the copy of the order passed by the National Tribunal, Bombay in the Approval Applications filed by the Indian Airlines Ltd. against all the three Petitioners. All the contentions raised here were raised before the National Tribunal also for the stand of the Petitioners that the enquiry conducted by the Management is not fair and proper. In that order itself, the Hon'ble Tribunal had come to the conclusion that an enquiry was held into the charges in accordance with the principles of natural justice, equity and fair play and in accordance with the provisions of Standing Orders applicable to them. So, under such circumstances, it cannot be said that the enquiry conducted by the II Party/

Management against the Petitioners was not fair and proper and the Petitioners were not given sufficient opportunity to defend them in the enquiry.

14. It is held in a case reported as 1993(2) Supreme Court Cases 115 CRESCENT DYES AND CHEMICALS Vs. RAM NARESH TRIPATHI that “limitations imposed in the Standing Orders is not violative for right to hearing and fair trial and natural justice.” In view of this Supreme Court decision, the Petitioner cannot contend that the Standing Order provisions of the Respondent/Management in not permitting the Petitioner delinquent employee to have the assistance of a lawyer in the domestic enquiry conflicts with the principles of natural justice. As per Standing Orders of Indian Airlines Corporation published in the Gazette of India, Rule No. 32 reads as follows :—

“An employee may be permitted if he so desires to have under his own arrangements the assistance of a friend during the course of the enquiry. Such a friend must be an employee of the Corporation, no outside representation shall be permitted in any circumstances.”

So the denial of permission by the Enquiry Officer to the Petitioner for engaging an advocate to defend them in the enquiry in view of the Supreme Court decision cannot be considered as a violation of principles of natural justice. It is also seen from the records that all the three Petitioners were convicted by the Criminal Court for one year sentence of imprisonment and imposed a fine of Rs. 1000 each under COFEPOSA. That was initiated in pursuance of the misconduct committed by these persons as alleged in the charge sheet issued to them. Ex M4 mahazar has not been disputed by these petitioners, which clearly proves the act of misconduct committed by these three Petitioners jointly. Further, it is seen that in spite of the conviction under COFEPOSA against these Petitioners, the Management has chosen to conduct an enquiry and in the enquiry the charges levelled against the Petitioners were proved for the Enquiry Officer to give a finding to that effect. From this it is seen that there are sufficient materials available in this case to hold that the enquiry conducted by the Management against the Petitioners was fair, proper, following the principles of natural justice.

15. On the basis of the findings of the Enquiry Officer in his report, the Disciplinary Authority as well as the Appellate Authority after perusing all the materials and other circumstances like the reply given by these Petitioners has properly come to the conclusion and has passed orders terminating the service of the Petitioners from the Respondent/Management/Indian Airlines Ltd. Hence, it can be concluded that the action of the management of M/s. Indian Airlines Ltd. Madras in terminating the services of the Petitioners Sri M.V. Anantha Subramanian, Sri D.

Kumar Christopher and Sri S. John w.e.f. 20-8-92 and 21-8-92 is justified. Hence, the concerned workman are not entitled to any relief.

16. In the result, an Award is passed holding that the action taken by the Respondent/Management/Indian Airlines Ltd. against the Petitioners/Workmen by terminating them from service is justified and the concerned workman are not entitled to any relief prayed for.

No Cost.

(Dictated to the Stenographer, transcribed and typed by him, corrected and pronounced by me in the open court on this day 21st November, 2001),

K. KARTHIKEYAN, Presiding Officer

Witnesses Examined :—

On either side : None

Documents marked :—

For the I Party/ Workmen :—

Ex. No.	Date	Description
W1	20-02-87	Xerox copy of the show cause notice.
W2	20-08-92	Xerox copy of the dismissal order.
W3	01-02-93	Xerox copy of the order passed by the Management in appeal by the Petitioners.

For the II Party/Management :—

Ex. No.	Date	Description
M1	18-05-92	Xerox copy of the enquiry proceeding.
M2	13-06-92	Xerox copy of the enquiry findings.
M3	10-01-87	Xerox copy of the statement of Sri J. Mohanraj Inspector of Police.
M4	14-12-86	Xerox copy of the mabazar.
M5	02-12-86	Xerox copy of the airway bill.
M6	Nil	Xerox copy of the transshipment cargo Delivery challan.
M7	12-12-86	Xerox copy of the air cargo transfer manifest.
M8	14-12-86	Xerox copy of the cargo manifest.
M9	20-02-87	Xerox copy of the chargesheet.
M10	28-02-92	Xerox copy of the order of the Supreme Court.
M11	24-06-92	Xerox copy of the letter from the Manager. Stores & Purchase stating that he concurs with the findings of Enquiry Officer.

M12 20-08-92 Xerox copy of the order of dismissal.

M13 20-08-92 Xerox copy of the application filed before the National Tribunal by the Respondent/Management.

M14 01-02-93 Xerox copy of the order passed by Regional Director, Indian Airlines Ltd.,

M15 01-09-94 Xerox copy of the letter from the Ministry of Labour enclosing the judgement copy of approval Application.

M16 20-02-87 Xerox copy of the chargesheet.

M17 22-06-92 Xerox copy of the letter from the Commercial Manager to the Petitioner.

M18 23-07-92 Xerox copy of the letter to the Petitioner Enclosing the show cause notice and other Enclosures by the Respondent/Management.

M19 17-08-92 Xerox copy of the letter from the Petitioner to the Respondent/Management.

M20 20-08-92 Xerox copy of the letter from the Commercial Manager to the Petitioner.

M21 20-08-92 Xerox copy of the application filed before the National Industrial Tribunal by the Respondent/ Manager.

M22 01-02-93 Xerox copy of the order passed by the Regional Director Indian Airlines Ltd.

M23 20-02-87 Xerox copy of the charge sheet.

M24 19-06-92 Xerox copy of the letter from the Management to the Petitioner.

M25 21-08-92 Xerox copy of the letter from the Management to the Petitioner.

M26 21-08-92 Xerox copy of the application before the National Industrial Tribunal by the Management

M27 01-02-93 Xerox copy of the order passed by the Regional Director Indian Airlines Ltd.

M28 Nil Xerox copy of the unopened cover Acknowledgement cards and receipts

नई दिल्ली, 3 दिसम्बर, 2001

का.श. 3506—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बी.सी.सी.एल. के प्रबंधन के संबंध में नियोजकों

और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार, औद्योगिक अधिकरण सं. 2, धनबाद के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 29-11-2001 को प्राप्त हुआ था।

[सं०एल-20012/317/90-आई आर(सी-1)]

एस.एच. गुप्ता, अव्वर सचिव

New Delhi, the 3rd December, 2001

S.O.3506—In pursuance of Section 17 of the Industrial Disputes Act, 1947(14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal No. 2 Dhanbad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of BCCL and their workman, which was received by the Central Government on 29-11-2001.

[No. L-20012/317/90-IR(C-1)]

S.S. GUPTA, Under Secretary
ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL (No. 2) AT DHANBAD
PRESENT

Shri B. Biswas,
Presiding Officer

In the matter of an Industrial Dispute under Section
10(1) (d) of the I.D. Act. 1947

REFERENCE NO. 64 of 1991

PARTIES : Employers in relation to the manage-
ment of Katras Choitudih Colliery of
M/s. BCCL and their workman.

APPEARANCES :

On behalf of the workman : None
On behalf of the employers : Shri B. Joshi,
Advocate.

State: Jharkhand Industry : Coal

Dated, Dhanbad, the 12th Nov., 2001

AWARD

The Govt. of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1) (d) of the I.D. Act., 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012/317/ 90-I.R. (Coal-I) dated, the 21st March, 1991.

SCHEDULE

“Whether the action of the management of Katras Choutidih Colliery in Katras Project Area of BCCL in not correcting birth date of Shri Ram Paresh Saw from 1938 to 031-1953 based on School leaving Certificate dated 20-4-89 is justifi-

fied? If not, to what relief the said workman is entitled?

2. The case of the concerned workman according to the W.S. in brief is as follows :

The concerned workman in his W.S. submitted that he was a permanent Timber Mazdoor at Katras Choitudih Colliery since 1971. He submitted that at the time of his employment the management illegally and arbitrarily recorded his date of birth as Form 1938 in B Register. He further submitted that inspite of recording that age in the Form B Register the management issued his I.D. card wherein his date of birth was recorded as 1933. The concerned workman submitted that his date of birth was recorded wrongly in the Form B Register as well as in the I.D. Card he submitted his representation to the the management disclosing the fact that his date of birth was 3.1.1953 and accordingly he requested the management to rectify his date of birth but the management did not pay any heed to representation made by the concerned workman.. The concerned workman in support of his claim relied on the School leaving certificate issued by his School. He further submitted that inspite of the school leaving certificate issued by the school in the matter of his date of birth the management did not consider necessary to send him to the Apex Medical Board for determination of his age. Thereafter the concerned workman raised an industrial dispute which ultimately resulted reference to this Tribunal.

3. The management on the contrary after filing W.S.-cum-rejoinder have denied all the claims and allegations which the concerned workman asserted in his W.S. The management submitted that the date of birth of the concerned workman was recorded in the Form B Register as 1938. He entered in to his employment on the basis of the particulars supplied by him.. The management further submitted that in the year 1986 the management supplied the service excerpt to the concerned workman and the concerned workman returned back the said service excerpt duly signed by him accepting the Same. In the service excerpt the date of birth of the concerned workman was shown as 1938 but inspite of perusing the said date of birth the concerned workman at that time did not raise any objection. The management submitted that relying on the school leaving certificate which was obtained by him after the service excerpt was given to him submitted that his date of birth was not 1938 but 3-1-53. They submitted that the said school leaving certificate was falsely produced by the concerned workman with a view to take advantage from the management for his long service Accordingly the management prayed for passing an Award rejecting the prayer of the concerned workman.

4. The points for decision in his reference are :—

“Whether the action of the management of Katras Choudidih Colliery in Katras Project Area of BCCL in not correcting birth date of Shri Ram Paresb Saw from 1938 to 03-1-53 based on School Leaving Certificate dated 20-4-89 is justified? If no, to what relief the said workman is entitled?”

DECISION WITH REASONS

5. It is seen that the management in order to establish their claim examined one witness. On the contrary inspite of giving several opportunities the concerned workman did not consider necessary to appear before the Tribunal with a view to establish his claim. MW-1 during his evidence disclosed that the age of the concerned workman according to the Form B Register was recorded as 1938. The Form B Register during evidence of MW-1 was marked as Exhibit M-1. From Sl. No. 77 of the Form B Register I find corroboration of the fact relating to the submission made by MW-1. It is seen from the Form B Register that the date of birth of the concerned workman was clearly recorded as 1938. MW-1 during evidence further disclosed that whenever the date of birth of any workman is recorded on year-wise. In that case the date of birth is counted on and from 1-7 of that year. MW-1 further submitted that the concerned workman has already been superannuated from his service and received all his dues. It is the contention of the concerned workman that his date of birth according to School Leaving Certificate was 1-3-53. From the School Leaving Certificate I find its corroboration. School leaving certificate was issued on 20-4-89. No explanation on the part of the concerned workman is forthcoming why he did not consider necessary to submit the School Leaving Certificate along with the service excerpt which was handed over to him in the year 1986 by the management. Had that been so in that case the management would get the scope to consider the date of birth of the concerned workman or there was scope to send the concerned workman to the Apex Medical Board for determination of his age. It is the specific allegation of the management that the said certificate is a manufactured one and it was manufactured by the workman for his own interest. The management relied on the NCWA-III Implementation No. 76. According to clause (b) of the Implementation Instruction No. 76 in the case of the existing employees Matriculation Certificate or Higher Secondary Certificate issued by the recognised Universities or Board or Middle Pass Certificate issued by the Board of Education and/or Department of Public Instruction and admit cards issued by the aforesaid Bodies should be treated as correct provided they were issued by the said Universities/Board/Institutions prior to the date of employment. It is seen from the pleadings of

the concerned workman that he got his employment in the year 1971. On the contrary from the School Certificate it transpires that it was issued by the School authorities on 20-4-89. Therefore, it is clear that long after his service he has obtained this certificate in support of his claim which I consider cannot be entertained according to clause (c) of the Implementation Instruction No. 76 of NCWA. Onus absolutely lies on the concerned workman to establish that his date of birth was wrongly recorded in the Form B Register by the management. No evidence is forthcoming on the part of the concerned workman that inspite of giving correct particulars the management committed this mischief. Even when the service excerpt was handed over to the concerned workman he did not raise any objection relating to his date of birth. Therefore, at this belated stage I find it difficult to accept the contention of the concerned workman that his date of birth was 3-1-53 and not 1938. Accordingly, I hold that the concerned workman has failed to substantiate his claim with reasonable certainty. In the result, the following Award is rendered :

“The action of the management of Katras Choudidih Colliery in Katras Project Area of BCCL in not correcting birth date of Shri Ram Paresb Saw from 1938 to 03-1-1953 based on School Leaving Certificate dt. 20-4-89 is justified. Consequently, the concerned workman is not entitled to get any relief.”

B. BISWAS, Presiding Officer

नई दिल्ली, 3 दिसम्बर, 2001

का.अ. 3507.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार वी.सी.सी.एल. के प्रबंधन के संबद्ध नियोजकों और उनके कमकारों के बीच, अनुबंध में निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण सं. 1, धनबाद के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 29-11-2001 को प्राप्त हुआ था।

[सं. एल-20012/335/93-आई.आर. (सी-1)]

एस.एस. गुप्ता, अवर सचिव

New Delhi, the 3rd December, 2001

S.O. 3507.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal-I, Dhanbad, as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of BCCL and their workman, which was received by the Central Government on 29-11-2001.

[No. L-20012/335/93-IR (C-1)]

S. S. GUPTA, Under Secy.

ANNEXURE
BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL NO. 1, DHANBAD

In the matter of a reference under Sec. 10(1)(d) of the
 Industrial Disputes Act, 1947

Reference No. 11 of 1994

Parties :

Employers in relation to the management of
 Bhalgora Area of M/s. B.C.C. Ltd.

AND

Their Workmen.

Present :

Shri S. H. Kazmi, Presiding Officer.

Appearances :

For the Employers : Shri S. N. Sinha, Advocate

For the Workmen : Shri B. N. Singh, Addl. General
 Secretary, National Coal
 Workers Congress.

State : Jharkhand

Industry : Coal

Dated, the 19th November, 2001

AWARD

By Order No. L-20012/335/93-I.R. (Coal-I) dated the 10/11th February, 1994 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal :

“Whether the demand of the union from the management of Bhalgora Area of M/s. B.C.C.L. P.O. Jharia, Distt. Dhanbad for regularisation of S/Shri Phuleshwar Singh and 14 others (as per list annexed) w.e.f. 1990 is justified? If so, to what relief the workmen are entitled and from which date?”

1. Sri Phuleshwar Singh
2. Sri Vijoy Vishwaker
3. Sri Suresh Singh
4. Satrugan Vishwaker
5. Amar Nath Singh
6. Lakhon Prasad
7. Baikunth Saw
8. Fulchand Bhuiya
9. Rewati Singh
10. Vijoy Prasad
11. Bilok Singh
12. Mihir Singh
13. Mahendra Kr. Singh No. II.

14. Sanjay Kumar Singh.

15. Vikram Vishwakarma.

2. Precisely, the case of the sponsoring union is that all the concerned workmen were engaged by the management and were working mostly as Tyndals since the year 1889 till the middle of November, 1991 continuously in different collieries like Simlabahal Colliery, Burragarh Colliery and Hurriladih Colliery of Bhalgora area putting in more than 190 days attendance in each calendar year. It is said that their works were supervised by the management's officials, like, mining sirdars, overmen, supervisors and others and they were issued materials, implements etc. by the management of the above collieries to do their jobs. They were also issued cap lamps from the Cap Lamp Rooms of the above collieries for going underground and their attendances were marked by the Attendance Clerks of those collieries. Further it is said that their works consisted of lowering down heavy materials in underground, lifting heavy materials from underground to surface, carrying heavy materials from one place to another and loading and unloading of heavy materials and so practically they used to perform jobs of Tyndals mostly and of and on they were utilised for doing cleaning job and for jobs connected with dyke cutting. All these works, as per the case, were of permanent and perennial nature, but inspite of that the concerned workmen were dubbed to have been engaged by one contractor/intermediary named Mandhata Singh for the sole purpose of denying them regularisation. It has also been said that the concerned workmen were paid their wages on much lower rate than the rates prescribed for them by N.C.W.A. and they were further denied all other benefits and facilities which were extended to permanent workmen for doing the job of Tyndals. It has been said that the provisions of Contract Labour (Regulation & Abolition) Act, 1970 are not at all attracted in the case of the concerned workmen to treat them contractor's workmen. Besides being directly engaged by the management of Bhalgora Area, it is said, that the concerned workmen were dubbed to have been engaged by the contractor to exploit them and such action on the part of the management was a camouflage only to cover up its lapses in violation of different laws connected with the matter. Further the case is that when the concerned workmen started demanding their regularisation from the management of Bhalgora Area on their permanent roll, they became eye-sore of the management which ultimately out of grudge, ill-will and dislike and also by way of victimisation threw all the concerned workmen out of employment sometime in the middle of November, 1991 pursuant to which they raised industrial dispute and when no positive development could take place before the Conciliation Authority ultimately the dispute was

referred to the Tribunal for adjudication. Lastly it has been said that all the 15 concerned workmen figuring in the present reference are entitled for their regularisation on management's permanent roll from the year 1990 with all benefits as per law.

3. The claim or the case of the management, on the other hand, in short, is that the concerned workmen were never employed by the management but by the contractor on need basis for miscellaneous jobs and not for perennial nature of job. As such there was no employer-employee relationship between the concerned workmen and the management of Bhalgora Area. Further it is said that the nature of job entrusted to the concerned workmen were of civil underground jobs, such as, construction of ventilation stopping, construction pillar, transportation of solicited machinery as well as surface civil job. For the permanent and perennial nature of work, it is said, the management gets the work done not through the contractors or through the workers of the contractor but through its own employees. It is also said that miscellaneous works were performed by the contractor's workers against specific and particular job and work orders were assigned by the management to the contractors. Further the case is that the management is under obligation and has got undisputed right to supervise the work of the persons employed in the mine for safety reasons whether he is contractor's labour or workmen of the management under the provisions of Mines Act and Regulations and by Laws framed therein. It is the obligatory for the management to put attendance of such workers going underground in Form 'C' and issue such workers safety equipments, such as, cap lamp from Cap Lamp Room of the management to do work underground. Further it is said that the concerned workmen were never utilised for prohibited or permanent nature of job which are being done through permanent workers like Tyndals and others and the names of the concerned workmen do not appear in any statutory register of the colliery of Bhalgora area, viz., Form 'B' Register, Identity Card Register, Manpower Register and they are not the members of Coal Mines Provident. Their leave registers were not maintained by the colliery and further they are not supplied the Identity Card nor they are issued wage-slips as done in case of permanent workers and so this amply shows that there was no employer-employee relationship between the two sides. Since they were not engaged by the management rather by their contractor in temporary nature of jobs as and when required so the question of putting in qualifying attendance does not arise. In view of such circumstances lastly it is said that the concerned workman who were out and out contractor's workmen cannot be deemed to be the employees of the management of Bhalgora Area of M/s.

B.C.C. Ltd. and the demand of the sponsoring union to regularise those persons in service of Bhalgora Area, consequently, is not justified.

4. In support of their respective stands the parties led their oral as well as documentary evidence in course of the proceeding. Three witnesses were examined on behalf of the concerned workmen or the sponsoring union and likewise two witnesses were examined on behalf of the management. So far as the documentary evidence is concerned from the side of the workmen a carbon copy of letter dated 19-6-92 sent to A.L.C.(C), Dhanbad by the sponsoring union has been filed which has been marked as Ext.W-1 in course of evidence of WW-3 whereas from the side of the management out of the documents filed Ext.M-1 series are photo copies of slips of different dates, Ext.M-2 is carbon copy of work order dated 31-8-90, Ext.M-2/1 is note-sheet dated 12-12-90 of M/s. BCCL and Ext.M-2/1 series are Misc. statement of work with effect from 1-9-90 to 21-9-90 of the contractor.

5. Quite obviously from the respective stands taken on behalf of the parties the core issue seems to be involved is whether at all there was any relationship of employer and employee between the concerned workmen and the management and also whether those workmen were doing permanent and perennial nature of job as Tyndals during the relevant period. The question of regularisation of the concerned workmen in service is quite apparently dependent upon the finding arrived at upon the aforesaid material issue.

6. It has been vehemently urged on behalf of the sponsoring union that despite the fact that the concerned workmen right from the year 1989 till the middle of 1991 worked as Tyndals directly under the control and supervision of the management they were denied regularisation merely by dubbing them as contractor's workmen whereas it stands undenied that not only their attendance used to be marked rather all the implements etc. were being supplied to them for carrying out the jobs assigned by the management and besides this, they were also supplied the cap lamps by the management for their safety and also to facilitate smooth functioning underground or inside the mine. It has also been submitted that from the description made in certain exhibits filed on behalf of the management as regards the nature of work being taken from the concerned workmen also, it is evident that the concerned workmen for all practical purposes were discharging their duties as tyndals and were not simply carrying out the works of miscellaneous nature of the job or purely the civil nature of job as per the case of the management. It has also been contended that the evidence adduced on behalf of the workmen is consistent as far as the

claim of the concerned workmen is concerned and it becomes quite apparent out of the entire materials that the management's action and their contention for dubbing the concerned workmen as contractor's workmen was simply a camouflage only to frustrate rightful claim of the concerned workmen and in view of several authorities of Hon'ble Apex Court the relief to the workmen cannot be denied in such circumstances and they are entitled to be regularised with all consequential relief. It has also been stressed that in a case of almost identical nature the Industrial Tribunal has given the award in favour of the workmen by holding the work of Tyndal as of permanent and perennial nature.

With equal vehemence it has been contended on behalf of the management that the sponsoring union has miserably failed to substantiate its case for regularisation of the concerned workmen, rather its own witnesses have admitted the fact and have supported the case of the management that the concerned workmen were engaged by a contractor named Mandhata Singh and that they were doing miscellaneous nature of job. It has also been contended that merely on account of the fact that the concerned workmen were supplied necessary implements and were also provided with cap lamps, they cannot be deemed to be the employees of the management. According to the submission since under the relevant provisions, Rules and Regulations it is obligatory on the part of the management to take care of safety of workers whether engaged by the contractor or directly engaged by the management, it provides cap lamp etc. to all of them for their safety. Further the argument advanced is that from the documents filed on behalf of the management and also from the evidence adduced on its behalf it becomes apparent that the concerned workmen never worked as Tyndals and they were never assigned the job of permanent and perennial nature and further it is evident from those materials that they all were engaged by the contractor named above and not by the management and as such their claim for regularisation has no basis at all and further their allegations as regards camouflage to cover up the lapses has no leg to stand. In view of several authorities of Hon'ble Supreme Court as well of different Hon'ble High Courts it is submitted that merely because the contractor or the employer had violated any provision of the Act or Rules, the Court cannot pass any order for deeming the contract labour as having become the employees of the principle employer. In a recent decision of Hon'ble Supreme Court also, according to submission, it has been held that the engagement of contract labour in connection with the work entrusted to him by the principal employer does not culminate in emergence of master and servant relationship between the principal employer and the contract

labour, rather it depends upon several factors and circumstances and as such the concept of automatic absorption in view of any notification under Sec. 10 of the Contract Labour (Regulation & Abolition) Act is erroneous.

7. Keeping in view the aforesaid submission advanced as also taking into account the evidence adduced on behalf of the respective sides or the materials put forward by them, it has got to be considered as to how far the claim of the sponsoring union or the concerned workmen stands justified.

8. In support of their claim the first witness (WW-1) on behalf of the workmen is one Hublal Prasad who has stated about himself that he is working as Tyndal Jamadar at Simlabahal colliery. He has said that 15 concerned workmen worked in that colliery as tyndals for a period of three years which ended in the year 1991 and they used to be placed under his charge and it is he who used to deploy them to work. According to him, the concerned workman used to be provided cap lamps and were paid their wages at the rate of Rs. 22 per day. He has also said that the concerned workmen used to take heavy machineries to the underground from the surface and used to carry motor with different horse power also. In his cross-examination he has said that different collieries have their own Tyndal Jamadars who do their duty in their colliery. He has also said that the concerned workmen were working under Mandhata contractor. He thereafter says that he cannot say as to in which four collieries the concerned workmen had worked because those collieries were adjacent ones and he used to be informed by the concerned workmen whenever he met them. Further, according to him, he can name only 2 to 4 of the concerned workmen and that they had worked for total period of three years including other collieries as regards which he could know because the concerned workmen had told him so, though personally he has not seen as to how those workmen were paid wages and how much. He has also said that the concerned workmen have no identity cards and they were paid their wages by Mandhata Singh, Contractor.

From the aforesaid statement of this witness it is apparent that though he is working as Tyndal Jamadar at Simlabahal colliery but claims to have deployed the concerned workman to work as tyndals and also supervised their work for three years in that colliery. It is something which is contrary to the case of the concerned workman because, according to them, they worked since 1989 to the middle of 1991 and during that period not only worked in one colliery, rather in three different collieries of Bhilgora area. In fact, in course of his cross-examination this witness has also accepted this fact but says that

he used to be informed as regards their engagement by the concerned workman, though according to him, they used to be paid by the contractor, Mandhata Singh and cannot say as to how much were being paid as the same was never done before him. He has also accepted this during his cross-examination that different collieries have their own Tyndal Jamadar. This being so at the highest this witness being a Tyndal Jamadar of only one colliery can be held to be competent to say about the facts relating to that colliery only and that is why he clarified in cross-examination that he was being informed by the concerned workman whenever they met him. So upon this aspect also that the concerned workmen worked for a total period of three years, he cannot be held to be competent or reliable. Moreover, as regards this he himself says that the concerned workman had told him so.

The next witness on behalf of the workman (WW-2) is Rup Lal Mandal who says that he is Mining Sirdar in Simlabahal colliery and the concerned workman are known to him who worked in that colliery from 1989 upto middle of the year 1991 as tyndals and whose work was supervised by the Jamadar Hublal Prasad. According to him, the management provided working implements and safety articles to them and their attendances were marked in Form 'C' register. During his cross-examination he says that the concerned workman were the mazdoors of Mandhata Singh, a contractor and further says that out of them he can name only one or two. He also says that the concerned workman were not given identity cards. At one place he has also said that the concerned workman usually worked in Bhalgora Section of Simlabahal colliery but sometimes they also went to work at Hurladih and Burragarh collieries. Further according to him, it is a fact that the concerned workman were the workers of the contractor.

From the statement of this witness also it is apparent that like WW-1 he has made few statements contrary to the statements made in the written statement, though like WW-1 he does not say that the concerned workman worked for three years but according to him also from 1989 upto the middle of 1991 the concerned workman worked in Simlabahal colliery as tyndals. His statement made during examination-in-chief gives the clear impression as if for the aforesaid period the concerned workman worked only in Simlabahal colliery. It is only during his cross-examination he has accepted that the concerned workman worked in two other collieries also but has not said that for how long they worked over there. Initially he has said that their work was supervised by the Jamadar, Hublal Prasad (WW-1) but if his

subsequent statement as regards working of the concerned workman in other two collieries also are to be taken into account and further if the statement of WW-1 to the effect that different collieries used to have their own Tyndal Jamadar is taken into consideration then the aforesaid statement made by this witness loses its significance, rather it stands falsified. It can well be considered that in presence of different Tyndal Jamadar in different collieries how a Tyndal Jamadar of one colliery can supervise the work of workmen or deploy them to work in other collieries also with which he has got no concerned. This apart, this witness has also accepted the fact that the concerned workman were the mazdoors of Mandhata Singh, a contractor. It is apparent out of the above that this witness cannot be held to be competent or reliable on the aspect that the concerned workman were in fact the workman of the management and they all worked continuously for a period of two and half years or for more than 190 days in one calendar year as per the case of those workman.

WW-3 Suresh Singh is one of the concerned workman. He has said that he and others had worked as Tyndals in Simlabahal colliery, Hurrallidih colliery and Burragarh colliery for three years from the year 1989 to 1991. According to him, they worked at simlabahal colliery for two and half years and they worked for about 3/4 months at Hurrallidih and then worked for two months at Burragarh colliery. In Form 'C' register, according to him, attendances were marked by the Attendance Clerk and cap lamps and other articles from stores were supplied to them for going underground. He has also said that heavy articles were carried by them from the store to underground loading machine and inside the mine it was carried by them to the work site as per direction of the Engineer Incharge. According to him, he used to work with the permanent tyndals of the colliery and was paid Rs. 22/- to Rs. 25/- as daily wages by one Mandhata Singh, contractor. He has identified the signature of Sri B.N. Singh, Union Secretary, on a letter which has been marked Ext. W-1. During his cross examination he has said that Mandhata Singh, contractor, took them for work in the colliery and no identity card was given to them for going inside the colliery. He has further said that his work was supervised by Mangha Pati, Engineer Incharge, who used to allow him for going inside the colliery for working. Further according to him, he was not a member of provident fund and none of the workman had their names in Form 'B' Register of the colliery. Further he says that in case of their absence they used to inform Mandhata Singh, contractor. Upon the question being asked he has expressed his inability to give full name of the Manager of Simlabahal

colliery and also the names of Foreman of the area where they used to work or the clerk who used to give them cap lamps and other articles or the Attendance Clerk who used to take their hazri in Form 'C'.

From the above it is apparent that despite being a concerned workman himself he has made few statements which are different from the statements given in their written statement. Firstly he says that he and others worked for three years and secondly he has specified the period also by saying that they worked at Simlabahal colliery for two and half years and then worked for 3/4 months at Huralidih and then worked for two months at Burragarh colliery. Apart from this statement being inconsistent there is no any document also produced to substantiate such claim. Further his statement to the effect that their work used to be supervised by the Engineer Incharge of Simlabahal colliery also stands contradicted by WW-1 and WW-2 also who have consistently stated that the works of the concerned workman were supervised by the Janmadar, Hublal Prasad (WW-1) in Simlabahal colliery. He has admitted the fact he and others were being engaged by Mandhata Singh, contractor and it is he who used to pay wages to them. Further, he has admitted the fact that they were not given the identity card nor they were members of provident fund nor their names were entered in Form 'B' register of the colliery. Further it goes to notice that despite having worked in the concerned collieries for three years as per his case he could not give the name of even a single competent authority of the colliery with whom he was supposed to have direct concern during their working in the concerned collieries. It is obvious therefore that he has failed to substantiate his claim that he and other workman worked either continuously for a period of two and half years or three years or for a period more than 190 days in one calendar year. Further he could not establish that besides having been engaged by the contractor for all practical purpose, in fact, they were under the direct control and supervision of the management and that the nature of work which they did during the relevant period was necessarily of a tyndal.

9. Now coming to the oral evidence led on behalf of the management it appears that MW-1 Ved Prakash Sharma, who claimed himself to be working as Superintending Engineer at present and according to him he has been working since 4-11-86 in different collieries under Bhalgora area till date. According to him he knew the contractor, Mandhata Singh who used to be engaged for performing miscellaneous and temporary nature of job. The names of the contractor's workman, according to him, were not entered in Form 'B' or Form 'C' registers and they were also not members of provident fund. Further according to him, he and other authority

used to make payment to the contractor as per work order and they used to make payment to the workers. He has also said that it is not correct that the concerned workman worked regularly from 1989 to 1992 for more than 190 days in a year. According to him, the concerned workman were sent underground for miscellaneous job, their attendances were marked in Form 'C' register as per provisions of Mines Act and safety equipment like, cap lamp, helmet etc. are supplied to such workman. He has proved the work slips filed by the workmen which were marked Ext. M-1 series on behalf of the management and about them he says that the workmen worked for 61 days as per work slips and those relate to the year 1991. He has also said that the concerned workmen were engaged for doing temporary nature of work and their claim is not justified. In course of his cross-examination he has said that he cannot say that Mandhata Singh, contractor, was a registered contractor in that area or not and also cannot say about his licence. He has also said that the work of the workmen underground was supervised by the contractor, Mandhata Singh and his Munshi and by the officers of the management for safety point of view. At one place further he says that he cannot say as to whether any register under Contract Labour (Regulation & Abolition) Act is maintained in the colliery or not. He has denied the suggestion that he has deposed falsely and deliberately to deprive the workmen from their due demand.

Quite obviously during his entire cross-examination he does not appear to have said anything so as to hold him incompetent or unreliable and nothing he has said which in any way can support the claim of the workmen in a substantial manner. He is a competent person also in the sense that he worked in the concerned collieries all through the relevant period as a responsible officer who used to engage contractors for carrying out miscellaneous and temporary nature of job. He has emphatically denied the claim of the workmen that they regularly worked for more than 190 days in a year.

The second witness on behalf of the management (MW-2) is a Senior Personnel Officer working in Huralidih colliery since September, 1995 prior to which he was working at Simlabahal colliery from 1-8-1987 to September, 1995. He also claims to have known Mandhata Singh, contractor, who was working in the colliery and the work was given to him by the Engineer of the colliery. The concerned workmen, according to him, had no entry of their names in the Identity Card or Form 'B' Register and their attendance was marked by the colliery staff while going underground. The payment, according to him, was made from area office and payment to workers

were made by the contractor. He has said that he cannot say that the workmen of the contractor worked for how much period in the colliery, but according to him they had not completed 190 days work in a year. According to him, they were not members of provident fund. He has proved the work order dated 31-8-90 to the contractor under the signature of the Agent, B. Singh, marked Ext. M-2, notesheet dated 12-12-90 under signature of K. Mangapati, Sr. Executive Engineer on different dates to the contractor, Mandhata Singh, marked Ext. M-2/2 (20 sheets). In his cross-examination he has said that he cannot say that Mandhata Singh had other workers besides the concerned workmen or not. He has also said that he cannot say whether Mandhata Singh was a registered contractor or not and whether he was licensee or not. Further he has said that no register was maintained for the contractors in the colliery. He has also said that he cannot say what specific job was given to the contractor for doing the work.

It is true that he has not specifically stated so far as the nature of job used to be done by the concerned workmen is concerned but he has proved certain relevant documents which clearly specify the nature of work being taken from the workers of the concerned contractor and besides this though he could not give the exact period during which the workmen of the contractor worked in the colliery, but emphatically he has said at one place, as seen above that they had not completed 190 days work in a year and that they were engaged by the contractor who used to pay them the wages for the work being done by them. During the entire cross-examination like MW-1 he has not said anything contradicting claim or the stand taken by the management or on the basis of which he can be held to be incompetent untrustworthy or unreliable.

10. As far as the documents filed on behalf of the respective sides are concerned as mentioned earlier only one document has been exhibited on behalf of the workmen and that is simply a letter sent by the union to the A.L.C.(C) during the pendency of the dispute before him in which the facts or assertions put forward on behalf of the management have been controverted and denied and which bears the signature of Sri B.N. Singh, Secretary of the concerned union, whereas from the side of the management out of the documents filed Ext. M-1 series are photocopies of the slips of different dates which contain the name of the contractor, Mandhata Singh and the names of the workmen engaged by him to carry out the works assigned to them on different dates. Interestingly these slips were filed on behalf of the workmen during the proceeding but the workmen did not choose to get them exhibited on their behalf, rather having found them in its favour the management

got them exhibited. Significantly, those slips are all for the period during the year 1991 and if they all are taken together it becomes clear that the concerned workmen worked only for 61 days and that too not in a regular manner. Despite the stand taken that the concerned workmen worked continuously for a period of 190 days in a calendar year, no any document has been filed on behalf of the workmen to show that they worked for any period whatsoever in the years 1989 and 1990 also. Although it stands not denied in the year 1989 or 1990 the concerned workmen had worked in the colliery but denial was definitely to the effect that they had not worked for a period of more than 190 days in a calendar year. As such it was necessary to substantiate through documentary evidence as well that in fact those workmen had worked for the said period, rather more than that. No explanation has been put forward as to why the work slips for the years 1989 and 1990 were not produced particularly when they managed to produce the work slips of the year 1991. Merely the workmen cannot fix the responsibility as regards this upon the management and cannot take shelter merely by asserting that the management ought to have produced Form 'C' Register which could have clarified the position. Further merely by non-production at all of such register it cannot be necessarily inferred that the concerned workmen had worked for more than 190 days in a calendar year. As discussed above, by leading oral evidence also the workmen have failed to substantiate the aforesaid stand. In short, it stands un-established that the concerned workmen worked for two and half years or three years or for more than 190 days in a calendar year.

The other documents on behalf of the management are Exts. M-2, M-2/1, M-2/2 series. These documents are either the work orders or the notesheets under signature of the Agent or by the Sr. Executive Engineer on different dates and those are for the different period in the year 1990.

The aforesaid documents have been filed and exhibited on behalf of the management in order to show that the concerned contractor was engaged or the concerned workmen were performing miscellaneous nature of job on need basis for a specified period and they were not working as tyndals for carrying or transporting heavy articles underground or the surface and their works were not of permanent, and perennial and regular nature. Interestingly in course of the argument by placing reliance upon the same documents it has been contended on behalf of the workmen that it is obvious there from that in fact the concerned workmen were performing the job of tyndals and were engaged for carrying heavy

materials, articles or equipments from one place to another. Having gone through these documents very carefully and minutely it appears that in all those documents it stands clearly mentioned that the concerned contractor was being asked to execute miscellaneous nature of job through his workmen and in none of them it is mentioned that those works were of the similar nature as done by the tyndals employed on regular basis by the management rather in not sheets it stands clearly mentioned that the contractual labourers were engaged due to shortage of manpower and emergency of the job for specified period and furthermore a fixed amount paid to the contractor for the work being done during the said period, is also mentioned. It is also apparent from those notesheets that services of the contractor or the workmen were availed only on need basis for a specified period for which specific amount was being paid to the contractor who thereafter paid the wages to the workmen which has been admitted also by the workmen. It is further quite obvious from the aforesaid documents that the contractor's workmen were engaged for different type of jobs and rightly the same has been described as miscellaneous nature of job. It is true that at times the contractor's workmen were required to load motor of different horse powers on a trolley for the purpose of taking it from one place to another or to take some other articles of different nature manually from one place to another. But at the same time it appears that the concerned workmen did the work, such as, suction pipe extension, pipes carrying, delivery leaking repairing and foot valve changing of H.T. pump. Succinctly, it can be observed by going through those documents that it cannot be necessarily gathered that the works being performed by the workmen were either of tyndals or of permanent and perennial nature, rather those documents support the stand of the management that miscellaneous nature of works were being taken from the contractor's workmen on need basis for a specific period for which a specific amount was being paid to the said contractor who in turn paid the wages to the workmen engaged by him with which the management never had any concern.

11. By citing two decisions of Hon'ble Supreme Court, one reported in 1997 Lab. I.C. 365 (Air India Statutory Corporation etc. Vs. United Labour Union and others) and another reported in AIR 1999 (SC) 1160 (Secretary, Haryana State Electricity Board Vs. Suresh and others) it has been vehemently urged on behalf of the workmen that U/S. 7 of the Contract Labour (Regulation & Abolition) Act, 1970 it is necessary for the management to apply for registration and to get it registered thereunder and further Sec. 12 of the said Act enjoins similar obligation on the contractor's registration. In the instant case,

according to submission, since no registration certificate either by principal employer or by the so-called contractor has been submitted, the concerned workmen dubbed to have been employed by the so-called contractor but performing regular nature of job of tyndals are to be legally treated as workmen of the management and not of contractor.

The aforesaid two decisions, I am afraid, do not support the aforesaid contention raised on behalf of the workmen as it has not been held therein that merely on account of non-compliance of the aforesaid statutory provisions it can necessarily be deemed that the workmen were the employees of the management and not of contractor. In this regard rather the decision of Hon'ble Supreme Court reported in 1992 Lab. I.C. 75 (SC)—(Dena Nath & others Vs. National Fertilisers Ltd.) appears to have direct bearing as in that case it has been clearly held by taking into account Sections 7, 12 and 24 of the Contract Labour (Regulation & Abolition) Act, 1970 that on account of non-compliance with provisions of registration or licence the only consequence is the exposure of either the management or the contractor to prosecution under Section 23, 25 of the said Act and just because of such non-compliance the contract labour employed does not become direct employees of principal employer. Significantly, this judgement of Hon'ble Supreme Court has also been relied upon in a recent decision of Hon'ble Supreme Court delivered in the case of Steel Authority of India Ltd. and others Vs. National Union Waterfront Workers and others reported in 2001 Supreme Court Cases (L&S) 1121. The said decision of Hon'ble Supreme Court was also relied upon for the purpose of holding that neither the Act or the Rules framed by the Central Government or by any appropriate Government provides that upon abolition of contract labour, the labourers would be directly absorbed by the principal employer. In nut-shell, the aforesaid contention advanced on behalf of the concerned workmen is devoid of substance.

12. By citing yet another decision of Hon'ble Supreme Court reported in 1978 Lab. I.C. 1264 (Hussainbhai, Calicut Vs. The Alath Factory Thezilali) it has been submitted that mere existence of any contract or contractor is not necessarily indicative of the fact that a workman for all practical purpose is the workman of the contractor and not of the employer, rather according to the submission, after piercing veil it is required to be discerned as to whether the contract system or the contractor is just a camouflage to frustrate the interest of the workmen or in fact the said contract is a genuine one and the workman is genuinely a workman of the contractor. In the instant case, according to submission, it has sufficiently been demonstrated by leading cogent

evidence that the concerned workmen were performing the job under the direct control and supervision of the management and it was the management which supplied necessary implements and safety articles etc. to them for the smooth functioning and for their safety as well and as such the existence of contract or contractor can only be treated as a mere camouflage to defeat the interest of the concerned workmen and consequently in view of the aforesaid decision of Hon'ble Supreme Court the concerned workmen can only be treated as the workmen of the management and as such are entitled for regularisation.

As far as the aforesaid legal proposition laid down by the Hon'ble Supreme Court is concerned the same cannot be disputed, rather the same still holds good as in the aforesaid recent decision of Hon'ble Supreme Court delivered in Steel Authority of India Ltd. also while setting aside its earlier decision rendered in Air India Statutory Corporation the Hon'ble Supreme Court while holding that Section 10 of C.L.R.A. Act does not postulate automatic absorption or regularisation of a workman has further went on to hold that on issuance of prohibition notification under Sec. 10(1) of C.L.R.A. Act prohibiting employment of contract labour or otherwise, in an industrial dispute brought before it by any contract labour in regard to condition of service the industrial adjudicator will have to consider the question whether the contract has been interposed either on the ground of having undertaken to produce any given result for the establishment or for supply of contract labour for work of the establishment under a genuine contractor or is a mere ruse/camouflage to evade compliance with various beneficial legislation so as to deprive the workers of the benefit thereunder. The Hon'ble Supreme Court has further observed that if the contract is found to be not genuine but a mere camouflage the so-called contract labourers will have to be treated as employee of the principal employer who shall be directed to regularise the services of the contract labour in the establishment concerned subject to the condition as may be specified by it for that purpose.

In the instant reference, it is obvious from the discussions made above there is nothing on the basis of which it can be concluded that the contract was not genuine, rather a mere camouflage to deprive the concerned workmen of their rightful claims and benefits and so the workmen cannot take recourse of the aforesaid submission or the law laid down by the Hon'ble Apex Court in view of the existing position borne out of materials on record. Lastly by taking help of an award rendered in Reference No. 51/78 by the Industrial Tribunal on 5-3-1981, it has been urged that having held the job of tyndals to be of permanent and perennial nature the Tribunal ordered for regularisation of the concerned workmen.

Having gone through the copy of the said award it seems that the decision in the said reference has been arrived at on its own merit and in that case it was not disputed that the concerned workman used to carry heavy materials and was working as Tyndal and further in the facts of that case materials produced were not sufficient to show that the contract was a genuine contract, rather out of that the Tribunal found the same to be a camouflage. As such, the aforesaid award of the Tribunal does not help the concerned workmen in the instant reference in any way.

13. Thus, in view of the observations, considerations and discussions made above it is concluded that there was no any relationship of employer and employee between the concerned workmen and the management and further the concerned workmen being the workmen engaged by the contractor were not doing permanent and perennial nature of job as Tyndals during the relevant period and in view of such being the position they are not entitled for regularisation.

14. Having come to the aforesaid findings the award is finally rendered as hereunder :

The demand of the union from the management of Bhalgora Area of M/s. B.C.C. Ltd., P.O. Jharia, Dist. Dhanbad for regularisation of the concerned workmen, namely, Phuleshwar Singh and 14 others with effect from 1990 is not justified and they are not entitled for any relief whatsoever.

In the circumstances of the case there would be, however, no order as to costs.

S. H. KAZMI, Presiding Officer

नई दिल्ली, 5 दिसम्बर, 2001

का.प्रा. 3508.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार में प्रकाश और केरियर्स के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारियों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण श्रम न्यायालय, भुवनेश्वर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 29-11-2001 को प्राप्त हुआ था।

[सं.एल-26011/15/99-आई आर(एम)]

बी.एम. डेविड, अवर सचिव

New Delhi, the 5th December, 2001

S.O. 3508.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal-cum-Labour Court, Bhubaneswar (Orissa) as shown in the Annexure, in the industrial dispute between the

employers in relation to the The Partner, M/s. Prakash Ore Carriers, and their workmen, received by the Central Government on 29-11-2001.

[No. L-26011/15/99-IR (M)]

B. M. DAVID, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BHUBANESWAR

PRESENT :

Shri S. K. Dhal, OSJS, (Sr. Branch),
Presiding Officer, C.G.I.T.-cum-Labour Court,
Bhubaneswar.

Tr. INDUSTRIAL DISPUTE CASE No. 70/2001

Date of concluding of the hearing : 29th October, 2001

Date of passing Award : 9th November, 2001

BETWEEN :

The Management of the Partner,
M/s. Prakash Ore Carriers,
P.O. Chaibasa,
Singhbhum-833 201. 1st Party—Management

AND

Their Workmen,
represented through the General Secretary,
Barbil Workers Union,
P.O. Barbil,
Dist. Keonjhar. 2nd Party Union

APPEARANCES :

None .. For the 1st Party Management
None .. For the 2nd Party Union.

AWARD

The Government of India in the Ministry of Labour, in exercise of powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) have referred the following dispute for adjudication vide their Order No. L-26011/15/99/IR (M), dated 24-01-2000 :

“Whether the demand of Barbil Workers Union, Barbil, for payment of wages to the Drivers and Helpers to High Grade Fines Section at par with Lump Section on the principle of equal wages for equal work by the management of M/s. Prakash Ore Carriers, Contractor, Bolani Ores Mines, RMD, SAIL, is justified ? If so, to what relief the workmen are entitled ?”

2. The dispute has been raised at the instance of the 2nd Party-Union. So the onus lies on them to establish their case by producing either oral or documentary evidence. After they produce materials, the 1st Party-Management could challenge the same either by producing oral or documentary evidence.

But in this case the 2nd Party-Union has not filed their Claim Statement in support of their case. The 2nd Party-Union has not come to the witness box to give their oral evidence or to exhibit documents in support of their demand that the action taken by the 1st Party-Management is illegal and unjustified.

3. In the circumstances above, when no materials have been produced on behalf of the 2nd Party-Union it can be concluded that the 2nd Party-Union has got no grievance against the action taken by the 1st Party-Management and they have got no cause of action. In other words the action of the 1st Party-Management is justified and the 2nd workmen are not entitled for any relief.

4. Reference is answered accordingly.

Dictated and corrected by me.

S. K. DHAL, Presiding Officer

नई दिल्ली, 5 दिसम्बर, 2001

का.अ. 3509.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार फिक्सड प्रा. लि., मै. डालमिया सीमेंट लि. के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण श्रम न्यायालय, चेन्नई के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 23-11-2001 को प्राप्त हुआ था।

[सं० एल-29011/12/2001-आई आर (एम)]

बी. एम. डेविड, अवर सचिव

New Delhi, the 5th December, 2001

S.O. 3509.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal-cum-Labour Court, Chennai, as shown in the Annexure, in the industrial dispute between the employers in relation to the Fixit Pvt. Ltd., M/s. Dalmia Cement (Bharatha) Ltd. and their workmen, received by the Central Government on 23-11-2001.

[No. L-29011/12/2001-IR (M)]

B. M. DAVID, Under Secy.

ANNEXURE BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Wednesday, the 24th October, 2001

Present : K. KARTHIKEYAN,
Presiding Officer

INDUSTRIAL DISPUTE NO. 583/2001

[In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Tamil Nadu National

Mine Workers Union Perambalur and the Management of Fixit Pvt. Ltd., and M/s. Dalmia Cements (Bharat) Ltd.]

BETWEEN

The General Secretary,
T.N. National Mine Workers Union,
Perambalur.

—I Party/Claimant

AND

1. The General Manager,
Fixit Pvt. Ltd.,
2. M/s. Dalmia Cements (Bharat) Ltd.,
Dalmiapuram. II Party/Management

Appearance :

- | | |
|--------------------|---|
| For the Workman | M/s. Row & Reddy,
Advocates. |
| For the Management | 1. M/s. T. S. Gopalan &
Co., Advocates.
2. Sri K. Jayaraman,
Advocate. |

AWARD

The Govt. of India, Ministry of Labour in exercise of powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of Industrial Dispute Act, 1947 (14 of 1947), have referred the following Industrial Dispute for adjudication vide Order No. L-29011/12/2001/IR (M) dated 14-05-2001 :

“Whether the demand of the Union for payment of customary bonus and cash gift from Fixit Private Ltd., sub-leasee is legal and justified ? And whether the demand of the Union for payment of customary bonus and cash gift by M/s. Dalmia Cement (Bharat) Ltd. on failure of sub-leasee holder M/s. Fixit Pvt. Ltd. is legal and justified ?”

When the matter came up before this Tribunal for final hearing on 11-10-2001, the learned counsel for I Party represented that the matter is being settled with the II Party Management and hence time may be granted for reporting settlement. As per his request, this case has been adjourned to this day for reporting settlement.

2. When this case is taken up today, the General Secretary of the I Party Union; Representative of the II Party (I) Management and counsel for II Party 1 and 2 present, represent that the dispute has been settled between the parties and they file a joint memo to that extent, and the same may be recorded and pray that the Tribunal may be pleased to pass an Award in terms of the Sec. 12(3) settlement entered between the parties.

3. The joint memo filed by both the parties is perused. In that memo it is stated that the I Party Union is not pressing the claim made in this dispute against the II Party (2) M/s. Dalmia Cement (Bharat) Ltd. since they have settled the dispute with the I Party Management Fixit Pvt. Ltd. and have entered into a Sec. 12(3) settlement with them. The xerox copy of the said settlement is filed. Joint memo filed by the parties is recorded.

4. In view of the joint memo recorded and in view of the Sec. 12(3) settlement entered into between the parties to the dispute an Award is passed in terms of the said settlement dated 11-09-2001 under the Industrial Disputes Act, 1947. As no claim is made in respect of this industrial dispute by the I Party Union against the II Party M/s. Dalmia Cements (Bharat) Ltd. as per the memo filed today, the claim made by the I Party union against the II Party (2) M/s. Dalmia Cements (Bharat) Ltd. is dismissed as not pressed. The copy of the above Settlement dated 11-09-2001 shall form part of this award. No cost.

(Dictated to the Stenographer, transcribed and typed by him, corrected and pronounced by me in the open court on this day the 24th October, 2001).

K. KARTHIKEYAN, Presiding Officer

Encl :—Memorandum of Settlement dated 11-09-2001.

Witnesses Examined :

On either side None

Documents Marked :

On either side Nil.

नई दिल्ली, 5 दिसम्बर, 2001

का.आ. 3510.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मे. एसोसिएटेड सीमेंट कं. के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्विष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, चेन्नई के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 23-11-2001 को प्राप्त हुआ था।

[सं. एल-29011/22/97-आई आर (एम)]

बी.एम. डेविड, अव्वर सचिव

New Delhi, the 5th December, 2001

S.O. 3510.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal-cum Labour Court, Chennai as shown in the Annexure, in the Industrial dispute

between the employers in relation to the The Associated Cement Cos. Ltd., and their workmen, received by the Central Government on 23-11-2001.

[No.-L-29011/22/1997-IR(M)]

B. M. DAVID, Under Secy.

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Wednesday, the 24th October, 2001

Present : K. KARTHIKEYAN,

Presiding Officer

INDUSTRIAL DISPUTE NO. 06/2001

(Tamil Nadu State Industrial Tribunal I.D. No. 38/2000)

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Workman and the Management of Associated Cement Co. Ltd., Coimbatore.)

BETWEEN

1. Coimbatore Cement : I Party/Claimant
Workers Union (AITUC)
2. The General Secretary,
Anna Cement
Thozhilalar Sangam.
3. The General Secretary,
Kovai Mavatta Podhu
Thozhilalar Munnetra
Sanga.

AND

The Managing Director, : II Party/Management
Associated Cement Co. Ltd.
Coimbatore.

Appearance :

- For the Claimant : M/s. K.V. Shanmuganathan,
Smt. V. Vyjayanthimala Advocates
- For the Management : Sri N.C. Ramachandran
& Sri K. Chakrapani,
Advocates

The Govt. of India, Ministry of Labour in exercise of powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of Industrial Dispute Act, 1947 (14 of 1947), have referred the concerned Industrial Dispute for adjudication vide Order No. L-29011/22/97-IR(Misc.) dated 04-06-1999.

This reference has been made earlier to the Tamil Nadu State Industrial Tribunal, where it was taken on file as I.D. No. 38/2000. When the matter was pending enquiry in that Tribunal, the Govt. of India, Ministry of Labour was pleased to order transfer of this case from that Tribunal to this Tribunal for adjudication. On receipt of records from that Tribunal, the case has been taken on file as I.D. No. 06/2001 and notices were sent to the counsel on record on either side, informing them about the transfer of this case to this Tribunal with a direction to appear before this Tribunal on 18-01-2001. On receipt of notice from this Tribunal, the counsel on either side present with their respective parties and prosecuted this case further.

When the matter came up before me for final hearing on 28-09-2001. I Party claimant for all the three Unions representatives and their counsel on record were not present. There is no representation on their side. They remained absent from March, 2001. The counsel for the II Party/Management alone was present. The learned counsel for the II Party/Management represented that the Counter Statement of the I Party/Management may be treated as his arguments.

Upon perusing the Claim Statement filed by the I Party/Coimbatore Cement Workers Union, which is adopted by I Party Anna Cement Thozhilalar Sangam and Kovai Mavattai Podhu Thozhilalar Munnetra Sangam and the Counter Statement filed by the II Party/Management, the other material papers on record, and upon perusing the documents filed by the II Party/Management as annexure to the Counter Statement and this matter having stood over till this date for consideration, this Tribunal has passed the following :

AWARD

The Industrial Dispute referred to in the above order of reference by the Central Govt. for adjudication by this Tribunal is as follows :

“Whether the action of the Management of Associated Cement Cos. Ltd., Coimbatore in proposing unilateral decision to fix units limit for usage of free Electricity for the employees staying in the quarters provided by Management is justified or not? If not justified, to what relief the employees are entitled?”

2. The averments in the Claim Statement filed by the I Party/Claimant No. 1 which is adopted by the Claimant Nos. 2 and 3 are briefly as follows :

All the staff and workers of the II Party/Management company (hereinafter refers to as Respondent) and also its various unions have been enjoying the

free electricity in their quarters provided by the management right from the construction of the quarters for the staff and workers and subsequent to arbitration Award passed under section 10A of Industrial Disputes Act, 1947 published in the Gazette of India dated 20-7-83 it has been specifically stated that the established practice with respect to free supply of electricity provided by the management in the quarters occupied by the staff and workers should not be disturbed. Hence, this restriction of free supply of electricity has not been taken away in the subsequent settlements till date. All of a sudden, before negotiating with the Trade Unions, representing all the staff and workers, the Respondent published a notice dated 8-1-1997 informing the staff and workers that the Management decided to restrict the supply of free electricity in the quarters provided by the Management as free quota per month 220 units for senior staff quarters, 150 units for junior staff quarters and 100 units for two room tenements and 60 units for single room tenements. The Management has no right in law to restrict the free supply of electricity to the quarters which benefit has been enjoying by the staff and workers for the past several decades. As soon as the said notice was published, the I Party/claimant (hereinafter refers to as Petitioner) sent or letter dated 9-1-97 to the Respondent objecting to restriction of free supply of electricity and subsequently all the unions by their letter dated 16-1-97 objected the Respondent's unilateral decision for restricting the free supply of electricity as mentioned in the notice dated 8-1-97. All the staff and workers occupying quarters are not misusing the free supply of electricity in their quarters. The restriction imposed by the Respondent/Management will cause financially much hardship under the present high cost of living in Coimbatore area. It will be too difficult to manage their deficit in monthly family budget. Hence, it is prayed that this Hon'ble Court may be pleased to pass an award directing the Respondent not to restrict the free supply of electricity in the quarters provided to the staff and workers as stated in their notice dated 8-1-97.

3. The averments in the Counter Statement of the II Party/Management are briefly as follows :

The employees of the Respondent company who have been provided with company's quarters were given free electricity for the lighting purpose only as per the terms and conditions stipulated in the provisions of appointment letter issued to the employees at the time of joining. A specific mention has been made in the appointment letter itself that the employee will be provided with the free electrical energy for lighting purpose only on free of charge for the time being. All the employees accepted the appointment on the above terms. In view of this,

the Respondent have not withdrawn any facility and the employees continued to enjoy supply of free electricity for lighting purposes and therefore, the claim made by the Petitioner are misleading and far from truth. As per the provisions of Award of Board of Arbitration for Cement Industry, the Arbitrators clearly stated that fixing the ceiling on consumption of electricity is not one of the issues referred to them for arbitration. Therefore, the question of fixing ceiling on consumption of electricity was not an issue dealt in the arbitration proceedings and hence reference made in the Claim Statement in respect of para 159 of Arbitration Award has no relevance in the present case. The employees vouched in the Respondent company's colony have been misusing the electricity by using heaters, ovens, electrical gadgets etc. unauthorisedly. Therefore the Respondent company has decided all ACC basis that some reasonable consumption of electricity for writing purposes only should be fixed with a view to avoid misuse of electricity. Accordingly, free quota has been fixed to various types of housing quarters in the colony of the Respondent. The Respondent has been advising the employees from time to time not to misuse electricity and conserve the same. They have also advised the employees to totally refrain from using heaters etc. In this connection, the Respondent displayed a notice dated 24-1-94 on all notice boards of the Respondent company including the mines wherein the Respondent has clearly stated that employees who seek permission to use a number of electrical gadgets like weld grinders, mixies, T.V. etc. will be permitted to use the electric power for all these purposes, subject to their paying for electricity consumed by them for such purposes at the appropriate tariff rates, as applicable to the domestic use fixed by various Electricity Boards in the concerned States. It is also stated in the notice that after installation of electrical energy meters in all the quarters, the company will be fixing the necessary free quota in respect of each quarter for which employees will not be required to pay any charge and they will be charged for the units consumed over and above the free quota at the tariff rates applicable to domestic use. The Respondent also increased the rate of consumption of electrical energy for using refrigerator from Rs. 7.50 per month which was fixed way back to Rs. 40.00 per month from January, 1994 and the employees who were using Coolers were also charged an amount of Rs. 25 per month w.e.f. 1-1-1994. The practice of revising/fixing new rates for electricity consumption for different electrical appliances is an established practice prevailing at the Respondent company and the Respondent has not deviated from any of the established practices as alleged by the Petitioner in their Claim Statement. The increase made in

the charge for consumption of electricity for refrigerator and fixed new rate for usage of Cooler was accepted by the employees including the Petitioner. All the employees were availing the above facilities and the Respondent company have been paying the charges as fixed above since, 1994 and there is no dispute at all raised by any of the Petitioners since then. All the unions functioning in the Respondent company were called and briefed about the step taken by the Management. The free quota of electricity fixed vide its notice dated 8-1-97 is very liberal and the units fixed are more than sufficient to meet the requirements of the employee residing in the Respondent company's quarters for the purpose of lighting. The Respondent company has not withdrawn any of the customary concession and from the beginning the Respondent company has been provided free electricity only for the purposes of lighting. It is the prerogative of the management to enforce restriction on the quota of electricity to be consumed for the purpose of preventing misuse/excess uses of electricity and control due to the fact that before enforcing restriction the management have complied with the requirement of giving notice of their intention way back in 1994 itself. The availability of electricity itself is increasingly becoming difficult for several States. Even the electricity is made available with great difficulty the cost of electricity per unit has been consistently increased. The consumption of electricity for domestic use is no longer restricted in consuming power for lighting purpose only and once an electricity connection is given to a house, it can be used for purposes other than lighting as well. No welfare measure can be extended to an unreasonable limit opposing the very principle of granting concession. If any disturbance is caused to the fixed quota it will lead to unnecessary cost escalation resulting in even increase in the price of the product of the company which the Govt. and the public policy now tried to avoid. The fixed quota of electricity of lighting purpose only is reasonable and hence, the steps taken by the Respondent/Management will be upheld as proper and the claim made in this dispute by the Petitioner may be dismissed.

4. The point or my consideration is :—

“Whether the action of the Management of Associated Cement Cos. Ltd., Coimbatore in proposing unilateral decision to fix units limit for usage of free Electricity for the employees staying in the quarters provided by the Management is justified or not? If not justified, to what relief the employees are entitled?”

Point :

It is not disputed that in the appointment letter issued to the employees at the time of joining, a

condition has been stipulated that the Respondent company providing company quarters of the employee will be giving free electricity for lighting purpose only. The xerox copy of one such appointment letter issued by the Respondent/Management to an employee dated 19-2-1974 filed as an Annexure I to the Counter Statement contains one such condition in respect of providing electrical energy for lighting purpose only free of charge for the time being. The averments in the Counter Statement that the employees of the Respondent company occupying the quarters provided to them by the company have been misusing electricity by using heaters, ovens and other electrical gadgets like refrigerators, wed grinders, mixies, coolers and TVs unauthorisedly. It is further contended in the Counter Statement that the employees who seek permission to use such electrical gadgets were permitted to use them for all these purposes, subject to their paying for electricity consumed by them for such purposes at the appropriate tariff rates as applicable to domestic use fixed by the various Electricity Boards in the concerned States. A xerox copy of the notice dated 24-1-94 of the Respondent/Management in respect of electrical energy consumption in the quarters has been filed as Annexure III to the Counter Statement. In that it is stated that apart from free electric power for writing purpose, the rate has been fixed for the use of refrigerator as Rs. 40 per month and Coolers as Rs. 25 per month w.e.f. 1-1-1994. The xerox copy of the disputed notice dated 8-1-97 has been filed as Annexure IV to the Counter Statement. From the notice Annexure III to the Counter Statement, it is seen even as early as from the year 1994 the Management had fixed the rate for using the refrigerators and coolers as the amount required to be paid by the employee who uses these gadgets from 1-1-94 per month. Under the Annexure IV notices dated 8-1-97 the Management has clearly stated that the provision of free electricity to all employees residing in the company's accommodation for lighting and fans is being widely misused and therefore, the Management had decided to fix free quota which has been arrived at on all ACC basis for electrical energy in respect of all the quarters of the company in residential colony as mentioned in the table therein. In that notice itself, it is stated that the units consumed beyond the entitled free quota will be charged at the tariff rates as applicable to domestic use fixed by the Tamil Nadu Electricity Board from time to time. From this, it is evident that the Respondent/Management has not withdrawn the facility of providing free electricity for the employees staying in the quarters provided by the Management. But under the given circumstances only, they have taken a decision to fix units limit for usage of free electricity for the employees staying in the quarters provided

by the Management. As stated in the counter of the Respondent/Management that it is the prerogative of the management to enforce restriction on the quota of electricity to be consumed for the purpose of preventing misuse/excess use of electricity and the Management before enforcing this restriction had complied with the requirement of giving notice of their intention way back in 1994 itself as it is seen from the xerox copy of the notice dated 24-01-94 filed as Annexure III to the Counter Statement. It cannot be disputed that the availability of the electricity itself is increasingly becoming difficult of and even when electricity is made available with great difficulty the cost of electricity per unit has been consistently increased. The Respondent/Management has clearly averred in the Counter Statement that the consumption of electricity for domestic use is no longer restricted to consuming of power for lighting purpose only and once the electricity connection is given to a house used for purposes other than lighting as well, the very principle of granting concession is become unreasonable. This has not been disputed by the Petitioner Unions as incorrect. Further, the Petitioner Unions have not been denied that the employees who are availing the facility of free supply of electricity for lighting purpose began to misuse that facility by excess use of electricity by the use of electrical gadgets like wed grinders, mixies, coolers, TV sets, refrigerators etc. That was why the Respondent/Management was compelled to fix necessary free quota of electric energy in respect of each type of quarters occupied by the employees of the Respondent/Management. It is clearly spelt out in the notice itself that the employees will not be required to pay any charge for the fixation of free quota of electrical energy and they will be charged for units consumed over and above the free quota at the tariff rates applicable to the domestic use. It is seen from the xerox copy of the annexure VI minutes of the meeting held between the representatives of the Management of Associated Cement Co. Ltd., and the workers representatives of Associated Cement Co. Ltd., National Staff Union and National Cement Workers Union, Madukkarai and an agreement was arrived at between the parties stating that there is immediate need to stop misuse of free supply of electricity in the company's quarters allotted to the employees. It has been clearly stated therein that the parties had agreed that the employees would continue to enjoy the benefit of free supply of electricity for the purpose of lighting and fan and the number of points for lights and fans and units for each quarter would be determined by the General Manager in consultation with recognised union's representatives. It is further stated therein that the employees using heaters for cooking and heating, refrigerators and other electrical gadgets will pay for

electrical consumption as per the units of consumption. However, so long as the meters are not provided the Management and the Union representatives will jointly fix the number of units to be charged for the use of above gadgets by the employees. From this it is seen that the restriction made by the Respondent/Management by fixing free quota of electrical energy in respect of all the company's residential quarters for lighting and using fans as per the notice dated 8-1-97 cannot be considered as unjustified. Only after giving sufficient notice, as per Annexure IV to Counter Statement of the Respondent, the Respondent/Management had fixed the units limits for the usage of free electricity for the employees staying in the quarters provided by the Management. Hence, it cannot be considered as an illegal or unreasonable action taken by the Management in this regard. From the facts available in this case, it is seen that the fixed quota of electricity for lighting purposes only is reasonable and the steps taken by the Management is proper and it can be upheld. Thus, the point is answered accordingly.

5. In the result, an Award is passed holding that the claim of the Petitioner Unions cannot be granted as their claim is unreasonable. No direction can be given to the Respondent as prayed for by the Petitioner Unions. No Cost.

(Dictated to the Stenographer, transcribed and typed by him, corrected and pronounced by me in the open court on this day the 24th October, 2001.)

K. KARTHIKEYAN, Presiding Officer

Witnesses Examined :

On either side : None

DOCUMENTS MARKED :

On either side : Nil

नई दिल्ली, 5 दिसम्बर, 2001

का.आ. 3511.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार में मेवाड़ खनिज उद्योग के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में श्रम न्यायालय, उदयपुर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 23-11-2001 को प्राप्त हुआ था।

[सं. एल-29012/22/99-आई आर(एम)]

बी. एम. डेविड, अवसर सचिव

New Delhi, the 5th December, 2001

S.O. 3511.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the

Industrial Tribunal, Udaipur as shown in the Annexure in the industrial dispute between the employers in relation to the M/s Mcwar Khanij Udyog and their workmen, received by the Central Government on 23-11-2001.

[No. L-29012/22/1999-IR(M)]

B.M. DAVID, Under Secy.

अनुबन्ध

न्यायालय : न्यायाधीश, औद्योगिक विवाद अधिकरण एवं श्रम न्यायालय, उदयपुर

पीठासीन अधिकारी : श्री पी एन खण्डेलवाल, श्रार एच जे एस ओ. विवाद संख्या 7/99

रामसिंह पुत्र स्व. मुनीलालसिंह, राजपूत, निवासी गांव बहुश्रारा, पोस्ट मेरुकाहा, श्याम मणरक, जिला छपरा (बिहार) हाल करछा सोण स्टोन (एसोसिएटेड सिनरल्स) मु. पोस्ट-करछा, तह. खैरबाड़ा जिला उदयपुर।

—प्राथी

बनाम

राकेश बहिया, माईन्स मालिक, मैसर्स मेवाड़ खनिज उद्योग के निवासी मकान नं. 315 हास्पिटल रोड, उदयपुर

—विपक्षी

उपस्थित :

श्री गजेश सिधवी प्राथी की ओर से
श्री अरुण व्यास विपक्षी की ओर से

उदयपुर, 12 अक्टूबर, 2001

पंचाट

भारत सरकार के श्रम विभाग द्वारा जरिये पत्र क्रमांक एल-29012/22/99/आई श्रार (एम) दि. 6-7-99 द्वारा मिन् आण्य का प्रसंग इस न्यायालय को प्रेषित किया गया।

“क्या प्रबंधक मैसर्स मेवाड़ खनिज उद्योग, उदयपुर द्वारा श्री रामजीसिंह मैट को दि. 3-6-97 को सेवा से पृथक् करना उचित एवं वैध है? यदि नहीं तो श्रमिक किस राहत को पाने का अधिकारी है?”

उक्त आण्य का प्रयुक्त प्राप्त होने पर न्यायालय द्वारा दिनांक 18-7-99 को रज. किया जाकर पक्षकारान को नोटिस जारी किये गये। जिस पर प्राथी की ओर से क्लेम व विपक्षी की ओर से जवाब पेश किया गया।

संक्षेप में प्रार्थना पत्र के तथ्य इस प्रकार हैं कि प्राथी को विपक्षी ने दि. 21-1-93 को मैट के पद पर नियुक्ति दी। प्राथी ने विपक्षी संस्थान में दि. 21-1-93 से 17-5-97 तक लगातार कार्य किया। प्राथी ने दि. 18-5-97 को अपनी पत्नी के बीमार हो जाने के कारण उसके इलाज के लिये विपक्षी के पिता श्याम सुंदर बहिया से सम्पर्क कर राशि भुगतान का निवेदन किया इस पर 2500 रु. का भुगतान किया गया। प्राथी 10 दिन का अवकाश स्वीकृत करा कर दि. 3-8-97 को विपक्षी के पिता बहिया

से सम्पर्क किया तो उन्होंने बताया कि विपक्षी संस्थान बंद कर दिया गया है। प्राथी ने विपक्षी संस्थान से मुआवजा राशि व बकाया राशि का भुगतान करने का निवेदन किया परन्तु विपक्षी ने देने से इंकार कर दिया व अन्य संस्थान में सेवा में लेने से भी इंकार कर दिया। प्राथी का विपक्षी संस्थान में अंतिम मासिक वेतन 2600 रु. था। मार्च 97 से मई 97 तक के वेतन की राशि 7800 रु., वर्ष 95-96 एवं 96-97 के बोनस की राशि 5200 रु. 30 अंजित अवकाश के 3000 रु. एवं 21 दिन के ओवर टाईम की राशि 1700 रु. कुल 17,700 रु. विपक्षी ने मांगता था जिनमें से विपक्षी ने प्राथी को 2500 रु. का भुगतान कर दिया। इस तरह प्राथी 15,200 रु. विपक्षी से बकाया राशि मांगता है। प्राथी ने विपक्षी संस्थान में 240 दिन से अधिक कार्य किया है। छटनी मुआवजा 60 दिन का वेतन 6000 रु. नोटिस पे 2600 रु. भी पाने का अधिकारी है। इस तरह प्राथी विपक्षी संस्थान से 23,800 रु. एवं उक्त राशि पर देय दिनांक से 18 प्रतिशत वार्षिक की दर से व्याज भी प्राप्त करने का अधिकारी है।

विपक्षी ने अपने प्रत्युत्तर में यह उल्लिखित किया है कि प्राथी ने नियुक्ति दिनांक से 17-5-97 तक लगातार कार्य नहीं किया। प्राथी वि. 21-1-93 से सेवा में लगने के पश्चात कई बार नौकरी छोड़ कर चला गया। पुनः आने पर उसके आग्रह पर सेवा में रखा गया। प्राथी लगातार अनुपस्थित रहने, कार्य के प्रति शिथिलता बरतने का आदि रहा है। प्राथी ने वि. 18-5-97 को कोई अवकाश नहीं लिया बल्कि स्वेच्छा से सेवाएं त्याग कर चला गया। प्राथी को 12,500 रु. की राशि पूर्व में भुगतान की जाच की है वह अव अव कोई राशि प्राप्त करने का अधिकारी नहीं है। प्राथी ने किसी भी वर्ष में 240 दिन की सेवा पूर्ण नहीं की है। अतः प्रार्थनापत्र खारिज किया जाए।

प्राथी ने अपने प्रार्थनापत्र के समर्थन में स्वयं का शपथ पत्र प्रस्तुत किया जबकि विपक्षी की ओर से मांगीलाल कोठारी मैनेजर एकाउंटेंट का शपथ पत्र प्रस्तुत किया गया। इन साक्षीगण से प्रति परीक्षण किया गया। दस्तावेजी साक्ष्य में इस्तीफा, बाउचर, हाजरी रजि. पेमेंट रजि., मृत्यु प्रमाण पत्र आदि दस्तावेजात पेश कर प्रदर्शित कराये गये।

न्यायालय द्वारा सम्पूर्ण तथ्यों का अवलोकन किया जाकर दोनों पक्षों के प्रतिनिधिगण की वहुत सुनी गई जिसमें लगभग उन्हीं तथ्यों का विस्तार के साथ उल्लेख किया गया जिनका उल्लेख क्लेम व जवाब में किया गया है। सभी परिस्थितियों पर विचार करने के उपरांत यह देखना है कि इन प्रकरण में किस आण्य का एवार्ड पारित किया जाना चाहिये।

प्राथी ने अपने शपथपत्र में प्रार्थना पत्र में अंकित तथ्यों का समर्थन करते हुए प्रतिपरीक्षण में कथन किया है कि यह गलत है कि दि. 30-9-96 को उसने इस्तीफा देकर नौकरी छोड़ दी हो प्रथम ए. 1 इस्तीफा पर ए. से वो हस्ताक्षर उससे जबरदस्ती कराये। दि. 19-12-2000 को हुए प्रति

परीक्षण में प्रार्थी ने इस्तीफा पर ए से बी अपने हस्ताक्षर होने से इंकार किया है। भुगतान के हस्ताक्षर फरवरी 94 व दिसम्बर 94 पर ए से बी उसके हस्ताक्षर हैं। प्रदर्श ए 3 पेमेंट बाउचर पर ए से बी उसके हस्ताक्षर हैं। आश्चर्यकृत होने से प्रोविडेंट फण्ड उसने उठा लिया। यह गलत है कि वह हर साल अप्रैल मई में लम्बे समय तक नहीं आता था। कभी कभी अवकाश पर रहा। यह गलत है कि इस्तीफा देकर हिसाब करके गया।

विपक्षी के साक्षी मांगीलाल कोठारी ने अपने शपथ पत्र में प्रत्युत्तर में अंकित तथ्यों का समर्थन करते हुए प्रति परीक्षण में कथन किया है कि 95 से 97 तक माईन्स पर 20-25 मजदूर काम करते थे जब बरसात होती थी तब काम बंद हो जाता था लेकिन प्रार्थी माईन्स पर रहता था। उस समय एक माईन्स मैनेजर व प्रार्थी सहित दो माईन्स मेट भी वहां रहते थे। प्रार्थी के लापरवाह होने के बाद भी उसका वेतन बढ़ाया गया था। प्रार्थी को पेमेंट फैंकट्री में किया था। उसने नोट गिन कर साढ़े बारह हजार रुपये दिये थे। पेमेंट हर माह 7 तारीख से 10 तारीख के बीच में करते थे। जब कभी मजदूरों को जरूरत नहीं होती थी तो एक साथ भुगतान लेते थे। प्रार्थी ने ऐसा लिख कर नहीं दिया कि उसके तीन माह वेतन आप अपने पास रखो। प्रदर्श ए 2 उसके सामने फैंकट्री में लिखा गया जो दि. 18-5-97 को लिखा जिस पर ए से बी साईन सेठजी ग्याम सुंदर के हैं। यह सही है कि जिस दिन यह पत्र दिया उसी दिन हिसाब कर दिया भुगतान दूसरे दिन किया। हम किसी श्रमिक का हिसाब करते हैं तब उससे रसीद लेते हैं। यह गलत है कि हमने प्रार्थी को 2500 रु. दिये हो और 12,500 रु. की रसीद करा ली हो।

प्रार्थी ने अपने आवेदन पत्र में इस तथ्य का उल्लेख किया है कि विपक्षी संस्थान में उसका अंतिम मासिक वेतन 2600-रु. था और उसे विपक्षी संस्थान ने मार्च 97 से आई 97 तक के वेतन की राशि 7800 रु. प्रदान नहीं की। उसे बिना अदा किये सेवा से पृथक कर दिया गया। विपक्षी ने इस तथ्य का खण्डन करते हुए उल्लिखित किया कि विपक्षी संस्थान ने प्रार्थी को मार्च 97 से मई 97 तक के वेतन का पूर्ण भुगतान कर प्रार्थी से रसीद प्राप्त की है। प्रार्थी को जो वेतन का भुगतान किया गया है उसकी रसीद प्रदर्श ए 3 है जिसमें 2600 रु. मासिक वेतन के हिसाब से प्रार्थी की उपस्थिति के अनुसार मार्च 97 से मई 97 तक की वेतन राशि 6710 रु. का भुगतान किया गया है। प्रदर्श ए 3 के अध्ययन के उपरांत यह नहीं जाना जा सकता कि प्रार्थी को मार्च 97 से मई 97 के वेतन का भुगतान विपक्षी द्वारा नहीं किया गया हो।

प्रार्थी ने अपने आवेदन पत्र में यह भी उल्लिखित किया है कि उसे वर्ष 95-96 एवं 96-97 के बोनस की राशि का भुगतान 5200 रु. विपक्षी द्वारा नहीं किया गया है। विपक्षी ने इस तथ्य का खण्डन करते हुए उल्लिखित किया है कि प्रार्थी को वर्ष 95-96 एवं 96-97 के बोनस राशि

का भुगतान कर दिया गया है और प्रार्थी से रसीद प्रदर्श ए 3 प्राप्त की गई है। प्रदर्श ए 3 पेटी कैश बाउचर मेवाड़ खनिज उद्योग दि. 19-5-97 का अभिलेख है उसमें इस तथ्य को स्पष्ट तौर से उल्लिखित किया गया है कि बोनस वर्ष 95-96 का 2107 रु. 96-97 का प्रोविजनल बोनस 2599 रु. की राशि का भुगतान प्रार्थी को किया गया है। इस भुगतान को नहीं मानने का कोई कारण हमारे विनम्र मतानुसार अभिलेख पर नहीं है।

इसी प्रकार प्रार्थी ने 30 दिन के उपाजित अवकाश के तीन हजार रुपये, 21 दिन के ओवर टाइम की राशि 1700 रु. भी विपक्षी में बकाया होना बताया है जबकि विपक्षी संस्थान ने अपने जवाब में यह कथन किया है कि जो अवकाश की राशि विपक्षी संस्थान में प्रार्थी की बकाया थी उसका भुगतान प्रदर्श ए 3 बाउचर के अनुसार कर दिया गया है। प्रदर्श ए 3 में 96-97 एवं 97-98 में सवेतन अवकाश के मद में 1084 रु. का भुगतान प्रार्थी को किया जाना बताया गया है। विपक्षी संस्थान ने ओवर टाइम के रजिस्टर की फोटो प्रति पेश की है जिसमें किसी प्रकार का ओवर टाइम किसी श्रमिक से कार्य कराने का उल्लेख किया हुआ नहीं है। रजि. की प्रति प्रदर्श ए 6 है जिसके गहन अध्ययन से यह स्पष्ट होता है कि विपक्षी संस्थान द्वारा विपक्षी संस्थान में कार्यरत किसी श्रमिक से कोई ओवर टाइम कार्य नहीं कराया गया। इस प्रकार से ओवर टाइम की कोई राशि प्रार्थी की विपक्षी में वाजिब बकाया होना प्रतीत नहीं होती है।

प्रार्थी पक्ष की तरफ से यह तर्क दिया गया है कि जिस त्याग पत्र के आधार पर प्रार्थी को सेवा से पृथक किया जाना बताया गया वह त्याग पत्र विपक्षी संस्थान ने प्रार्थी को डरा धमका कर व दबाव में हस्ताक्षर करा कर त्याग पत्र लिखाया गया है और उसी के आधार पर त्याग पत्र स्वीकार किया गया। प्रार्थी ने दि. 20-6-97 को एक प्रार्थनापत्र श्रम प्रवर्तन अधिकारी के समक्ष पेश किया है जिसमें उसने जबर-दस्ती दबाव डाल कर त्याग पत्र लिखाने का उल्लेख किया है लेकिन साथ ही उसका क्लेम कम्पनसेशन पी एफ भुगतान दिलाने का भी आग्रह किया है। प्रार्थी द्वारा विपक्षी संस्थान में प्रस्तुत किये गये सभी त्याग पत्र किसी दबाव में आकर लिखाये गये हो, यह स्वीकार किये जाने योग्य नहीं है। प्रार्थी यदि दबाव में आकर त्याग पत्र लिखता तो उन तथ्यों का उल्लेख स्पष्ट तौर से अपने प्रार्थना पत्र में करता कि उससे जबरन त्याग पत्र लिखाया गया है जबकि वह निरंतर विपक्षी संस्थान में कार्यरत रहने के लिये इच्छुक है लेकिन ऐसी परिस्थिति व कारण प्रार्थी ने अपने आवेदन पत्र में या विपक्षी संस्थान में प्रस्तुत किये गये त्याग पत्र में उल्लिखित नहीं किया है इस कारण प्रार्थी द्वारा विपक्षी संस्थान में प्रस्तुत किये गये त्याग पत्र को किसी दबाव में आकर लिखे जाने का तर्क हमारे विनम्र मतानुसार स्वीकार किये जाने योग्य नहीं है। प्रार्थी स्वयं विपक्षी संस्थान से त्याग पत्र के आधार पर सेवा छोड़ कर गया है और उसकी सभी प्रकार की बकाया राशि का भुगतान विपक्षी द्वारा प्रार्थी को किया

जा चुका है जिसका पूर्ण विवरण प्रदर्श ए 3 में उल्लिखित है। इस प्रकार से विपक्षी संस्थान में प्रार्थी की कोई वाजिब बकाया नहीं है और इस कारण प्रार्थी की सेवा मुक्ति किसी भी प्रकार से अनुचित व अवैध नहीं कही जा सकती और प्रार्थी किसी प्रकार की कोई सहायता प्राप्त करने का अधिकारी नहीं है।

अतः प्रबंधक मैसर्स मेवाड़ खनिज उद्योग उदयपुर द्वारा प्रार्थी रामसिंह मेट को दि. 3-6-97 को सेवा से पृथक् करना उचित एवं वैध है। प्रार्थी की कोई राशि विपक्षी संस्थान में बकाया नहीं है। अतः प्रार्थी को कोई अनुतोष देय नहीं होता है। पंचाट प्रकाशनार्थ भारत सरकार को प्रेषित किया जाये।

पी एन खण्डेलवाल, न्यायाधीश

नई दिल्ली, 5 दिसम्बर, 2001

का. आ. 3512.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मै. एस. जी. एस. इंडिया लि. के प्रबंध-तंत्र के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण भुवनेश्वर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 5-12-01 को प्राप्त हुआ था।

[सं. एल-29012/43/2001-आई आर (एम)]

बी. एम. डेविड, अव्वर सचिव

New Delhi, the 5th December, 2001

S.O. 3512.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Indus. Tribunal-cum-Labour Court, Bhubaneswar (Orissa) as shown in the Annexure, in the industrial dispute between the employers in relation to the S.G.S. India Ltd. and their workmen, received by the Central Government on 05-12-2001.

[No. L-29012/43/2001-IR(M)]

B.M. DAVID, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT
BHUBANESWAR

Present:

Shri S.K. Dhal, OSJS' (Sr. Branch)
Presiding Officer, C.G.I.T.-cum-Labour
Court, Bhubaneswar.

INDUSTRIAL DISPUTE CASE NO. 415/2001

Date of concluding of the hearing 9th Nov. 2001

Date of Passing Award 27th Nov. 2001

BETWEEN :

(a) The Management of the General Manager,
S.G.S. India Ltd., Delta House, Calcutta-I.
(b) The In-Charge, Hotel Baidyanath Complex,
S.G.S. India Ltd., At/Po Joda, Dist. Keonjhar
....1st Party-Management

AND

Their Workmen, represented through the
General Secretary, Qr. No. G/107, Bolani,
P.O. Bolani, Dist. Keonjhar.

....2nd Party-Union

Appearances:

Representative of S.G.S. India Ltd., and
OthersFor the 1st Party-Management
NoneFor the 2nd Party-Union

AWARD

The Government of India in the Ministry of Labour, in exercise of powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) have referred the following dispute for adjudication vide their Order No. L-29012/43/2001/IR(M), dated 05-07-2001.

“Whether the demand of the Keonjhar Mining Workers Union for enhancement of pay scale with point to point fitment basis along with 100 % DA and Rs. 350/- per point V.D.A. to the employees of S.G.S. India Ltd., Joda is justified? If not, what relief the workmen are entitled to?”
“Whether the demand of the Keonjhar Mining Workers Union for payment of Rs. 50/- per month as washing allowance, enhancement of Conveyance allowance to Rs. 500/- per month. Settling allowance at the rate of Rs.250/- for three months after the transfer of an employee and house rent allowance at the rate of 25% of wages to all the employees of S.G.S. India Ltd., Joda is justified? If, not what relief the workmen are entitled to?”

“Whether the action of the Management of S.G.S. India Ltd., Joda by not confirming the employees after six months of their employment is justified? If not what relief the workmen are entitled to?”

2. The reference was made on 5-7-2001. While making reference the Government of India (Ministry of Labour) had intimated the 2nd Party-Union to file their Claim Statement. From the date of receipt of the reference the Tribunal also directed by issuing notice to the 2nd Party-Union to file the Claim Statement but the 2nd Party-Union did not take any step. The representative of the 1st Party-Management has made his appearance on 9-11-2001. The 2nd Party-Union has also been set exparte on 9-11-2001.

3. The dispute has been raised at the instance of the 2nd Party-Union. So the initial onus lies on the 2nd Party-Union to establish its case. Unless, the Claim Statement is filed, there is no scope for the 1st Party-Management to file their Written Statement. As the 2nd Party-Union has not taken any step and they have not filed their Claim Statement, it cannot be said that the demand of the 2nd Party-Union is justified. Unless materials are placed before the Tribunal, it cannot be said that the action taken by the 1st Party-Management as referred to by the Ministry of Labour, Government of India is unjustified. So, it can be said that the action of the 1st Party-Management of S.G.S. India Ltd., Joda, by not confirming the employees after six months of their employment is justified. In that case, the workmen are not entitled for any relief.

Reference is answered accordingly.

Directed & Corrected by me.

S. K. Dhal Presiding Officer
C.G.I.T.-cum-L.C., Bhubaneswar

नई दिल्ली, 5 दिसम्बर, 2001

का. आ. 3513:—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार हिन्दुस्तान कॉपर लि. के प्रबंधन के संबंध नियोगियों और उनके कर्मचारियों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण अनवाद के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 28-11-2001 को प्राप्त हुआ था।

[एल. 29012/44/92 आई.आर. (एम)]
वी. एम. डेविड, अवर सचिव

Now Delhi, the 5th December, 2001.

S.O. 3513.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Dhanbad as shown in the Annexure in the Industrial dispute between the employers in relation to the management

Hindustan Copper Ltd. and their workman, which was received by the Central Government on 28-11-01.

[[No. L-29012/44/92-IR(M)]

B.M. DAVID, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

PRESENT

Shri B. Biswas, Presiding Officer

In the matter of an Industrial Dispute under Section 10(1)(d) of the I.D. Act., 1947.

REFERENCE NO. 137 OF 1993

PARTIES: Employers in relation to the management of Hindustan Copper Ltd. and their workman.

APPEARANCES:

On behalf of the workman Shri K. Chakravorty,
Advocate.

On behalf of the employers : Shri B. Joshi,
Advocate.

State : Jharkhand Industry : Copper

Dated, Dhanbad, the 19th November, 2001

AWARD

The Govt. of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act., 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-29012/44/92-IR(Misc.) dt. 16-8-1993/1.9.

THE SCHEDULE

"Whether order No. ref. PM/S-21/M/90-91/3 dated 15-4-1991 issued by the Management of Mosaboni Mine is justified? If not, what relief Sh. M.S. Safar is entitled to and since when."

2. The case of the concerned workman in brief is as follows:

The concerned workman in his W.S. submitted that at the time of his getting employment on 16-4-54 under the management his age in the Form B Register was recorded as 20 years. The management also communicated the said age recorded by them to him. He alleged that in spite of the aforesaid fact the management recorded the date of birth of the concerned workman in the statutory register as 24 years with effect from 16-4-54. Accordingly he submitted representation before the management to this effect but the management without considering his prayer arranged for his medical test by the Apex Medical Board. He submitted that the age assessed by the Apex Medical Board was not in accordance

with the particulars of medical jurisprudence for which the same cannot be taken into consideration. He submitted that in spite of submitting repeated representation the management relying on the medical board report superannuated him with effect from 30-11-91 in violation of the provision of the Standing Order and also in violation of the mandatory provision of medical jurisprudence. Accordingly finding no alternative way the concerned workman raised an industrial dispute before the ALC(C) Chaibasa challenging his superannuation with effect from 30-11-91 but the conciliation proceeding ended in failure due to the adamant attitude of the management. As a result the present reference was made.

3. The management on the contrary after filing W.S.-cum-rejoinder has denied all claims and allegations which the concerned workman asserted in his W.S. It has been submitted by the management the age of the concerned workman was recorded as 24 years in the Form B Register as on 16-4-54. Accordingly superannuation notice was given on 16-10-89 to the concerned workman informing him that his date of superannuation will be with effect from 30-4-90. However, as the notice of superannuation was disputed by the union the concerned workman was referred to the Medical Board for assessment of his age in terms of Memorandum of Settlement dt. 27-11-85. The management submitted that according to the report of the Medical Board the age of the concerned workman was assessed as 58 years as on 29-11-89. The decision accordingly was officially communicated to the concerned workman on 30-11-89. The management submitted that according to the age assessed by the Medical Board his date of superannuation was 30-11-89. Accordingly a notice was given to him on 15-5-91 informing him that his date of superannuation will take effect on and from 30-11-91. The management submitted that they did not commit any illegality in superannuating the concerned workman on the basis of medical report. The management further submitted that the Medical Board also did not commit any illegality in assessing the age of the concerned workman violating the medical jurisprudence. Accordingly the management has prayed for passing an Award rejecting the claim of the concerned workman.

4. The points for decision in this reference are:

"Whether order No. ref. : PM/S-21/M/90-91/3 dt. 15-4-1991 issued by the Management of Mosaboni Mine is justified? If not, what relief Sh. M.S. Satar is entitled to and since when."

DECISION WITH REASONS

5. The management in order to substantiate their claim examined three witnesses, while the concerned

workman examined himself as witness in support of his claim. In course of evidence of MW-2 the Form B Register was marked as Ext. M-2 and the Bipartite Settlement in between the union and the management was marked as Ext. M-3. MW-2 during his evidence disclosed that according to the Form B Register the name of the concerned workman is appearing in Sl.No. 2940. This witness further disclosed that according to this register the age of the concerned workman was recorded as 24 years as on 16-4-54. The concerned workman on the contrary submitted that his age was recorded as 20 years in the Form B Register as on 16-4-54. Disclosing this fact the workman submitted that the management wrongly recorded his age in the Form B Register ignoring his actual age originally recorded therein. It is seen that as the management issued notice of superannuation to the concerned workman the union of the concerned workman raised serious dispute and for which the management relying on the said settlement marked as Ext. M-3 sent the concerned workman to the Medical Board for his medical examination in order to assess his age. MW-2 who is Medical Superintendent, Rakha Copper Project Hospital during his evidence disclosed that the medical examination for assessment of age of the concerned workman was conducted by the medical Board consisting of three medical officers, namely Dr. Miss A. Marandi, Dr. S. Mandal and he himself. This witness disclosed that after medical examination they assessed that the age of the concerned workman was in between 58-59 years on the date of examination. The Medical report during evidence of MW-1 was marked as Ext. M-1. The concerned workman submitted that arbitrarily and ignoring the Medical jurisprudence the Medical Board assessed his age arbitrarily and for which the same cannot be accepted. On the contrary MW-1 denied the allegation which has been brought by the concerned workman. It has been submitted by MW-1 that classification test is not the exclusive test to assess the age of any person. He submitted that they rightly examined the concerned workman and assessed his age correctly and for which he denied the fact that violating the principles of medical jurisprudence they assessed the age of the concerned workman. Learned Advocate for the concerned workman in support of claim of the concerned workman relied on a decision reported in LLJ II 67 page 266. I have considered the decision of the Hon'ble Apex Court and I find no dispute to hold that the case of the concerned workman has no bearing with the decision referred to above. Onus absolutely lies on the concerned workman to show that his age was actually recorded as 20 years as on 16-4-54 but subsequently the management whimsically ignoring that age recorded his age

as 24 years. Untill and unless this fact is established there is no reason to consider that the management illegally as well as arbitrarily striking down his age as 20 years recorded his age as 24 years in the Form B Register. However, as the union raised serious dispute over superannuation notice given to the concerned workman the management relying on the agreement marked as Ext. M-3 sent to the concerned workman to the Medical Board for assessment of his age. The terms of the settlement are as follows:—

“TERMS OF SETTLEMENT”

1. It is agreed that in respect of employees who had at any time appeared before the Medical Board and their age were assessed, the age so assessed shall be final.
2. It is agreed that in respect of employees whose age has been recorded in the concerned original Form B Register maintained under the Mines Act and Rules made thereunder excluding those employees at 1 above, the age recorded in the Form B Register shall be final for them.
3. It is also agreed that in respect of employees who are not covered under (1) and (2) above and where there is any dispute in this regard, both the parties (Recognised Union and the Management) will discuss the matter mutually. In case of difference of opinion between them, the decision of the Company's Medical Board shall be final. The Company's Medical Board to be constituted in this regard as and when required shall consist of three Company's Doctors/Medical Officers.
4. This settlement shall be effective from 1-11-1985 and covered the employees who are on the Rolls of the Company as on 1-11-1985.”
6. The settlement is clear enough that both the management and the union agreed to settle any dispute relating to age relying on the principles formulated therein. It is not the case of the concerned workman that he did not attend the medical board for assessment of his age. I have failed to find out any illegality in assessment of the age of the concerned workman by the Medical Board. The management submitted that as a result of assessment of age of the concerned workman by the medical board it was the concerned workman who got its privilege. They disclosed that instead of superannuation with effect from 30-4-90 the concerned workman was superannuated with effect from 30-11-91. The management has submitted that the concerned workman in course of hearing has failed to produce any cogent document to show that he was actually 20 years of age on 16-4-54 while the said age was recorded in the Form B Register. The concerned workman i.e. WW-1 during his evidence has failed

to produce any such relevant papers in support of his claim. As such there is no reason to believe that the age of the concerned workman in the Form B Register was recorded as 20 years on 16-4-54. On the contrary there is reason to believe that as the dispute relating to age of the concerned workman cropped up the management following the guidelines of the settlement rightly sent him to the medical board for assessment of his age. I consider that by doing so the management did not commit any illegality. It is seen that the management on the basis of the Medical Board's report superannuated the concerned workman with effect from 30-11-91. As I have failed to find out any illegality in taking decision by the management for superannuating the concerned workman with effect from 30-11-91 on the basis of the Medical Board I do not find any justification to interfere with the management's decision. In view of the facts and circumstances disclosed above the concerned workman is not entitled to get any relief. In the result, the following Award is rendered:—

“The order No. ref: PM/S-21/M/90-91/3 dated 15-4-1991 issued by the Management of Mosaboni Mine is justified. Consequently, the concerned workman is not entitled to get any relief.”

B. BISWAS, Presiding Officer.

नई दिल्ली, 5 दिसम्बर, 2001

का. मा. 3514.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार आर. के. मार्बल्स के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में श्रम न्यायालय उदयपुर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 23-11-2001 को प्राप्त हुआ था।

[सं. एल. 29012/53/2001-आई आर (एम)]

बी. एम. डेविड, अवर सचिव

New Delhi, the 5th December, 2001

S. O. 3514.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Industrial Tribunal Udaipur, as shown in the Annexure, in the industrial dispute between the employers in relation to the M/s. R. K. Marbles Ltd., The General Manager, and their workmen, received by the Central Government on 23-11-2001.

[No. L-29012/53/2001-IR (M)]

B. M. DAVID, Under Secy.

अनुबन्ध

बी. नं. 16/2001, केन्द्र सरकार

आई. टी. आर.

अनवान: श्रवण सिंह व जन. मने. आर. के. साबल
राजसमन्दअधि. नं.: 29012/53/01 आई आर (एम)
16-08-01

निर्णय

15-10-2001

प्रार्थी प्रतिनिधि उप. नहीं? विपक्षी की ओर से मो. सरीफ छोटा Ad. ने अधिकार पत्र पेश किया चाहा। श्रम मंत्रालय में प्राप्त विवाद में प्रार्थी का पूर्ण पता नहीं होने से प्रार्थी को नोटिस तामिल कराना सम्भव नहीं है ऐसी स्थिति में प्रार्थी की बिना तामिल विवाद में आगे कार्यवाही सम्भव नहीं है। अतः विवाद में कार्यवाही यहीं समाप्त की जाती है।

सूचना श्रम मंत्रालय भारत सरकार को भेजी जावे पत्रावली फैसला शुमार होकर दाखिल दफ्तर हो।

ह. अपठनीय

नई दिल्ली, 5 दिसम्बर, 2001

का. आ. 3515:—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार जेम कार्पो. ऑफ उड़ीसा लि. के प्रबंध-तंत्र के सम्बद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबन्ध में निम्नलिखित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण भुवनेश्वर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 23-11-2001 को प्राप्त हुआ था।

[सं.एल. 29012/63/96-आई आर (एम)]

बी. एम. डेविड, अव्वर सचिव

New Delhi, the 5th December, 2001

S. O. 3515.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, Bhubaneswar as shown in the Annexure in the Industrial Dispute between the employers in relation to the management Gem Corporation of Orissa Ltd., and their workmen, which was received by the Central Government on 23-11-2001.

[No. L-29012/63/96-IR (M)]

B. M. DAVID, Under Secy.

CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT
BHUBANESWAR

Present ;

Shri S. K. Dhal, OSJS (Sr. Branch)
Presiding Officer, C.G.I.T.-cum-Labour
Court, Bhubaneswar.

Tr. INDUSTRIAL DISPUTE CASE No. 114/2001

Date of concluding of the hearing 31st Oct. 2001

Date of passing Award 13th Nov., 2001

Between :

The Management of the Manager,
Finance & Administration,
Gem Corporation of Orissa Ltd.,
Regd. Office-D/20, B.J.B. Nagar,
Bhubaneswar. —1st Party-Management

(And)

Their Workmen, Shri Tapan Kumar Sarangi,
At. Ranpur, Po. Alaver, Via. B.likuda,
Dist. Jagatsinghpur (Orissa)

—2nd Party-Workman.

Appearances :

None.

For the 1st Party-
Management.

None.

For the 2nd Party-
Workman.

AWARD

The Government of India in the Ministry of Labour, in exercise of Powers conferred by Clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), have referred the following dispute for adjudication vide their Order No. L-29012/63/96-IR (M), dated 13-1-1997):—

“Whether the action of the Management of GEM Corporation of Orissa Ltd. in terminating the services of Shri Tapan Kumar Sarangi even after completion of more than 5 years continuous service is legal and justified? If not, to what relief the workmen is entitled to?”

2. The case of the Claimant (who will be called as the 2nd Party) is that, he worked under the Management (herein after called as the 1st Party) on daily wage basis from 23-6-1990 as Choukidar-cum-Peon. Thereafter he was given the work of Asst. Plant Operator. While working on 24-2-1996 a false and fabricated case was made out by the 1st Party-Management but they could not prove it against him. When the applicant was working in the kitchen a termination order was issued to one Shri Jogi Naik and on the same day leave application of the applicant was rejected. h

and he had been to his native village. The applicant returned from leave on 11-3-1996 but he has not allowed to join. When he asked the reason as to why his services has been terminated, though he had worked for more than 240 days, without any notice his services has been terminated, violating the requirements of Industrial Dispute Act. Hence he raised the dispute. After failure of the reconciliation, the reference has been made.

The 1st Party-Management in his Written Statement has pleaded that, the 2nd Party-Workman was engaged initially as a Watchman-cum-Feon as daily wage basis and subsequently, to attend various miscellaneous jobs. He was found indisciplined and creating law and order problem in the mines for which several warning was issued to him. He did not prove his conduct but become more mischievous and indisciplined. It is urged that, on 19-1-1996 the 2nd Party-Workman with his two colleagues took the Excavator from the mine premises to some near by village carrying some people on it to attend a marriage ceremony. On 23-2-1996 at around 11 a.m. he also misbehaved with a daily rated local working woman. On 28-2-1996 when explanation was called for from the 2nd Party-Workman and during the course of enquiry the applicant created disturbance. Charge was framed against the workman. Enquiry was conducted, but he had not attended the enquiry. So on the report of Enquiry Officer order of termination was passed and it was sent by Post. According to the 1st Party-Management termination is justified and legal.

4. On the above pleadings of the parties the following Issues have been settled.

1. Whether the action of the Management of GEM Corporation of Orissa Ltd. in terminating the services of Shri Tapan Kumar Sarangi, even after completion of more than 5 years of continuous service is legal and justified ?

2. If not, to what relief, the workman is entitled ?

FINDINGS

ISSUE NO. I

5. After framing of Issues both the parties were allowed to adduce oral evidence. The Issues were settled on 9-12-1997. Thereafter the workman has not taken any step to adduce oral evidence or exhibit his documents in support of

his case. When the 2nd Party-Workman has challenged his termination the burden lies on him to establish that, he had worked five years and his termination has been made without any basis. The 1st Party-Management is required to lead evidence to disprove it. But when there is no evidence adduced on behalf of the 2nd Party-Workman it will be presumed that he has got no material in support of his case for which he has not taken part in the proceeding before this Tribunal. So after perusal of the documents this Tribunal is of the opinion that the action of the 1st Party-Management of GEM Corporation of Orissa Limited in terminating the services of Shri Tapan Kumar Sarangi even after completion of more than 5 years of continuous service is legal and justified. This Issue is answered in favour of the 1st Party-Management.

ISSUE NO. II

6. In view of my findings given in respect of Issue No. II, the workman is not entitled for any relief.

7. Reference is answered accordingly.

Dictated & Corrected by me.

S.K. DHAL, Presiding Officer
Bhubaneswar

नई दिल्ली, 5 दिसम्बर, 2001

का. आ. 3516:—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मद्रास पोर्ट ट्रस्ट के प्रबंधन के संबंध निर्योजकों और उनके कर्मचारों के बीच, अनुबंध में निहित औद्योगिक विवाद में श्रम न्यायालय चेन्नई के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 23-11-01 को प्राप्त हुआ था।

[सं. एल. 33012/13/88 डी III (डी)]

बी. एम. डेविड, अधीक्षक सचिव

New Delhi, the 5th December, 2001

S. O. 3516.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Chennai as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Madras Port Trust and their workman, which was received by the Central Government on 23-11-2001.

[L-33012/13/88-D. (III) (D)]

B. M. DAVID, Under Secy.

**ANNEXURE
BEFORE THE INDUSTRIAL TRIBUNAL,
TAMIL NADU, CHENNAI**

Tuesday, the 30th day of October, 2001

Present :

**THIRU S. R. SINGHARAVELU, B.Sc. B.L.,
Industrial Tribunal**

Industrial Dispute No. 81 of 1988

(In the matter of dispute for adjudication under Sec. 10(1)(d) of the Industrial Dispute Act, 1947 between the Workman and the Management of the Chairman, Madras Port Trust, NSC Bose Road, Madras—600 001.)

BETWEEN

Sri T. Sampushparaj,
No. 6, New Street,
Nungambakkam, Madras-34.

AND

The Chairman,
Madras Port Trust,
NSC Bose Road,
Madras-600 001.

Reference : Order No. L-33012/3/88-D.III (B) dated 21-12-88 Ministry of Labour, Govt. of India, New Delhi.

This dispute after remand coming on for final hearing on Thursday, the 11th day of October, 2001, upon perusing the reference, Claim and Counter statements and all other material papers on record and upon hearing the arguments of Thiru S. Vaidyanathan for Tvl. Row & Reddy, advocates appearing for the Worker and of Tvl. A. L. Somayaji and R. Arumugam, advocates appearing for the Management, and this dispute having stood over till this day for consideration, this Tribunal made the following :

AWARD

The Govt. of India has referred the following issue for adjudication by this Tribunal :

"Whether the Management of Madras Port Trust, Madras is justified in dismissing Sh. T. Sampushparaj, Signalman from service, w.e.f. 27-5-87 ? If not to what relief Sh. Sampushparaj is entitled to ?"

2. The main averments found in the Claim Statement of the Petitioner are as follows :

The petitioner entered into service as Junior Signalman in the Madras Port Trust in the year 1981. He was on leave for 5 days from 27-12-86 to 31-12-86 and he reported to duty on 2-1-87 for night shift after availing the compensatory off on 1-1-1987. He was suspended from service by an Order dated 3-1-87

by the Deputy Port Conservator for alleged charge of misconduct, viz. Boarding the Vessel M. V. Nata at about 14.00 hours on 31-12-86 and unauthorisedly took away the pen of the Master of the Vessel impersonating as Anti Pollution Officer. He submitted his explanation. He pleaded not guilty of the charges levelled against him. Deputy Port Conservator ordered for a domestic enquiry to go into the charges alleged to have been committed by the petitioner. The finding of the Enquiry Officer is perverse and he was not given ample opportunity to defend the charge. The non-furnishing of the Master's report vitiates the domestic enquiry and violates the principles of justice. The Enquiry Officer found the petitioner guilty of the charges and awarded the punishment of dismissal from service. The enquiry officer found the petitioner guilty of the charges and awarded the punishment of dismissal from service since the charges were grave, misconduct affecting the business and reputation of Port Trust. He preferred an appeal to the Chairman and it was dismissed. It was not given any consideration as it is devoid of merit. The domestic enquiry conducted by the Enquiry Officer is not fair and proper. The principles of natural justice and good conscience were not complied with by the Enquiry Officer. The findings of the Enquiry Officer are perverse. The evidence of Kannan and Dhanapathy is biased and motivated. He was not paid the subsistence allowance during the period of suspension, as contemplated by clause (5) of 17(a)(1) vitiates the enquiry proceedings. The charges framed against him are not proved by legal evidence. Conciliation failed. He prayed for setting aside the Order of dismissal and reinstatement with full back wages.

3. The main averments found in the Counter Statement of the respondent are as follows :

The petitioner on 31-12-86 at about 14.00 hours boarded the Vessel M. V. Nata by impersonating himself as Anti-Pollution Officer and met the Master of the Vessel and unauthorisedly took away the Master's pen. The Master of the Vessel gave a report to the Deputy Port Conservator. The master of the vessel identified the petitioner and said that the petitioner boarded the Vessel and unauthorisedly took away the pen belonging to the Master. The petitioner admitted that he unauthorisedly took away the pen belonging to the master of the Vessel and it was in his house and he returned to the Master of the vessel at 8.15 a.m. on 3-1-87. The charges levelled against the petitioner are proved by the documentary and oral evidence of Kannan and Fire Service Officer Mr. Dhanapathy. The misconduct on the part of the petitioner is serious amounting to dishonesty and fraud affecting the Board's business, administration and reputation. The master has got sentimental value. The Master of the Vessel uses the said pe

for preparing the notes. The petitioner did not ask for adjournment of enquiry on the allegation that his daughter was admitted in the Private (Vijay) hospital as an inpatient.

4. On behalf of petitioner/workman, Ex. W-1 to W-19 were marked by consent. On behalf of respondent, MW-1 Thiru A. Thirumalai has been examined and Ex. M-1 and C-1 were marked.

5. The point for consideration is whether the Management of Madras Port Trust, Madras is justified in dismissing Shri T. Sampushparaj, Signal man from service w.e.f. 27-5-87? If not to what relief Sri Sampushparaj is entitled to?

6. The Point: This Industrial Dispute was earlier disposed by this Tribunal on 30-6-94 holding that this Tribunal had no ground to interfere with the punishment awarded to the workmen and so the claim of the workmen was dismissed. As against which, the workmen preferred W.P. No. 13241/95 wherein an Order was passed on 20-7-2001 remitting back the Industrial Dispute for reconsideration. In the process of remittance, certain glaring mistakes committed in the award of the Industrial Tribunal were also pointed out in the Judgement of the Writ petition. The evidence recorded by the Enquiry Officer himself was found as a mistaken one. Again incidence about the antecedents were not mentioned in the Charge Memo was also pointed out.

7. In order to reconsider the entire proceedings of the Enquiry, we have to briefly see through the facts of the case. Ex. W-3 dt. 9-1-1987 is the Charge Memo. The charge was,

"that the workman has boarded the vessel M. V. Nata at about 14.00 hours on 31-12-86 unauthorisedly took the pen from the Master of the Vessel by impersonating himself as Anti Pollution Officer which is a serious misconduct amounting to dishonesty and fraud with the Board's business."

Capt. V. K. Kapur, was asked to conduct the enquiry and the Asstt. Marine Officer G. Jayaraman was appointed as Presenting Officer. In the course of the enquiry, the evidence of Thiru Kannan, Engineer showed that the Deputy Chairman who had subsequently met the Captain, had asked the Captain by showing the pen whether it belonged to him; the Captain identified his pen and Deputy Chairman gave his pen to the Captain and he said that he was sorry for all the inconvenience caused to the Captain. Thus the telling of Mr. Kannan about the happenings took place in the presence of Deputy Chairman and narration by the later cannot be said to be hear-say. There was also cross-examination of Mr. Kannan by the workman himself. A reading of the same

would show only the subsistence made during the cross examination. Similarly the other evidence available on record also shows not only the unauthorised entry of workman into the vessel; but also the theft committed by him with respect to the pen of the Captain. The Captain has also identified the pen. It was recovered from the delinquent. In fact the workman returned the pen to Mr. Kannan who in turn gave it to the Captain on 3-1-87 at about 8.30 A.M. The petitioner was said to have brought the pen from his house. In this connection, the evidence on record was shown as if it was recorded by the Enquiry Officer himself. Even if we leave such portion of the evidence, the other available evidence of Mr. S. Kannan clearly shows that workman delivered the pen to Mr. Kannan who in turn delivered it to Captain who had identified it. So irrespective of the fact as to whether the workman had brought his pen from his house or somewhere else, the fact remains that the workman had delivered the pen, from his custody. We are not concerned as to whether he has brought it from his house or from some other place. In this regard, even if the evidence said to have been recorded by the Enquiry Officer himself is eschewable, the remaining portion of the evidence indicates the guilt of delinquent. Even in respect of the non-containing of incidences of antecedents of the workman in the Charge Memo what we can tell is that deterrence in the punishment is required even for the gravity of the present misconduct of the workman without referring to his antecedents. It is not as if deterrence in punishment was required only if antecedents warrant it. Sometimes even without referring to the antecedents, the gravity of the present misconduct itself may require a deterrent punishment. In this case impersonation made to enter into a Vessel and commission of theft of article of Captain, when proved would definitely require deterrence in punishment and that application of Section 11A can not come into picture in view of the gravity of the misconduct.

8. So far as the application of Sec. 11A is concerned, it has been held in Catena of cases that the Courts cannot interfere with the punishment inflicted with the delinquent unless it is shockingly disproportionate. In this case, we have already found that we cannot call it as shockingly disproportionate. This is so because the gravity of misconduct is such that it warrants a dismissal. Thus the citations in 1992 I LLJ p. 384, 1989 II LLJ p. 608 and 2000 (3) S.C.C. p. 450 are of no use to the workman. What all the above citations, connote is that only if the punishment is shockingly disproportionate to the misconduct done interference under Sec. 11A is required. This concept is accepted, but the facts of the case do not require interference under Sec. 11A of the Act. Again reliance was placed upon 2001 (2) LLN

p. 460 wherein it was contended that the facts that the charges appearing to be of grave nature were proved per se does not automatically entail the imposition of the maximum or drastic punishment of dismissal in all cases and as a matter of course. It was further held in that case that it is only in such circumstance, Courts have held that past conduct or previous track record of service or compelling circumstances have also to be taken into account and the management must be shown to have adverted to all such aspects before imposing a particular punishment. In that case, it was further held as follows :

“In this case before us, a perusal of the order of the punishing authority as also the appellate authority disclose no such reference or consideration, at all. The appellant, at all stages before the Enquiry Officer, the punishing authority he also the appellate authority has been harping upon about his unblemished service of 22 years with the bank compelling circumstances and factors which were said to be beyond his control for the appellant acting in the manner in which he did the dire family circumstances, and the helpless position of his family, his preparedness at least to serve even in the sub staff category from which he was promoted as bill collector, for the remaining period of service, viz. fourteen years as on the date of order of dismissal and his assurance not to behave once again in the manner he has done once in his service career resulting in the misfortune, for the sympathetic consideration of the authorities in relation to the matter of punishment to be imposed, ultimately. To say the least, all these appear to have fallen on the deaf ears of the concerned authorities only, since there was no consideration by any one of them, of any of such matter before imposing the punishment of dismissal. It is in the context of all these only the Tribunal, in this case appears to have been persuaded to adopt the course of interfering with the quantum of punishment and consequently awarded compensation, in our view, of a very reasonable sum compared to the long years of service rendered and the number of years still left for him to go before attaining superannuation, in lieu of reinstatement.”

9. A careful perusal of Appeal dated 2-8-1987 of the delinquent to the Chairman would go to show that enquiry was impartial and the workman did not put up any of the difficult situation that he has to meet in case of dismissal. For the reason that no dis-advantageous or uncomfortable situation was ever pictured by the delinquent as a result of the order of dismissal, the facts of the above case may not be applicable

to the present case. While he seem to be very much confident in getting some other avocation, no interference in the punishment is required.

10. Even on earlier occasion, similar misconduct was made by the same delinquent in December 1985 for which an enquiry was held and a lenient view was taken in awarding punishment and thus increment was withheld for one year without cumulative effect as is evident from Ex. M 1. Acquittal order about this incidence as established under Ex. C 1 judgement has nothing to do with the findings of this enquiry because the former was the result of benefit of doubt and the later what was required was preponderance of probabilities. So viewed in any angle Sec. 11 is inapplicable. Hence the action of Management in dismissing workman is justified. Award passed accordingly. No costs.

Dated at Chennai, this 30th day of October, 2001.

S.R. SINGHARAVELU
INDUSTRIAL TRIBUNAL

Witnesses Examined

For Petitioner/Workman : None
For Respondent/Management : MW1 Thiru A. Thirumalai (Proof affidavit)

Documents marked

For Petitioner/Workman
Ex. W 1 3-1-87 : Suspension order issued to Petitioner-workman Thiru T. Sampushparaj (xerox)
Ex. W 2 : Explanation by petitioner/workman to Ex. W 1
Ex. W 3 9-1-87 : Charge memo issued to petitioner-workman (xerox)
EX. W 4 12-1-87 Letter from petitioner-workman to the management requesting a copy of Master's report (xerox)
Ex. W 5 15-1-87 : Enquiry notice issued to Petitioner-workman
Ex. W 6 22-1-87 : Letter from Management informing the petitioner-workman that he may peruse Master's report (xerox)
Ex. W 7 : Proceedings of the Enquiry officer (xerox)

- Ex. W 8 .. : Presenting officer's summing up report (xerox copy)
- Ex. W 9 .. : Petitioner workman's summing up report on the enquiry (xerox)
- Ex. W 10 1-4-87 : Report of enquiry officer (xerox)
- Ex. W 11 13-4-87 : Second Show Cause notice issued to Petitioner-workman (xerox)
- Ex. W 12 30-4-87 : Explanation by petitioner-workman to Ex. W 11 (xerox)
- Ex. W 13 27-5-87 : Order of discharge issued to Petitioner/workman
- Ex. W 14 2-8-87 : Appeal preferred by petitioner-workman to the management (copy)
- Ex. W 15 16-10-87 : Order of Appellate Authority rejecting the Appeal of the petitioner-workman (xerox)
- Ex. W 16 2-11-87 : Petition U/S 2A of the Industrial Disputes Act raised by petitioner-workman before the Conciliation Officer (xerox copy)
- Ex. W 17 8-1-88 : Counter filed by management to Ex. W 16 (xerox)
- Ex. W 18 8-2-88 : Reply statement filed by petitioner-workman to Ex. W 17 (xerox copy)
- Ex. W 19 19-7-88 : Conciliation failure report (xerox copy)

For Management (After remand)

Ex. M 1 April 86 Letter by Deputy Port Conservator to Sri T. Samoushiparaj.

Court Document

Ex. C 1 16-3-88 Judgement copy by XVI M. M. G. T. in CC No. 7776/87

नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निहित औद्योगिक विवाद में श्रम न्यायालय इरनाकुलम ने पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 29-11-01 को प्राप्त हुआ था।

[सं. एल.-35011/2/98-आईआर (एम)]

बी. एम. डेविड, अवर सचिव

New Delhi, the 5th December, 2001

S.O. 3517.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947) the Central Government hereby publishes the Award of the Labour Court, Ernakulam as shown in the Annexure, in the industrial dispute between the employers in relation to the Cochin Port Trust, and their workman, received by the Central Government on 29-11-2001.

[No. L-35011/2/98-IR (M)]

B. M. DAVID, Under Secy.

IN THE CENTRAL GOVERNMENT LABOUR COURT, ERNAKULAM

IN THE LABOUR COURT, ERNAKULAM

(Wednesday the 26th day of September, 2001)

Present ;

Smt. N. Thulasi Bai, B.A., LL. B.,
Presiding Officer

Industrial Dispute No. 43 of 1998 (Central)
Between

The Chairman, Cochin Port Trust, W/Island,
Cochin 682003

And

The Workmen of the above concern represented by
the General Secretary, Cochin Port Staff
Association, Cochin

Representation ;

Sri. Joy Joseph,
Advocate,
Kottayam.

..For Management.

Sri. Alex. M Arayath,
Advocate,
Kottayam.

..For Petitioner

AWARD

This reference was made by the Government as per order No. L-35011/2/98/IR (M) dated 17-8-98. The dispute is between the Cochin Port Trust and their workmen. The dispute referred is "Whether the action of the management of Cochin Port Trust in fixing lower pay to Sri. A. D. Suany and 9 others, Labourers than that

नई दिल्ली, 5 दिसम्बर, 2001

का. अ. 3517.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार कोचीन पोर्ट ट्रस्ट के प्रबंधकों के संबंध

of some of their juniors w.e.f. 2-2-1993 is justified? If not, to what relief the workmen are entitled?"

2. If the reference the workmen are represented by the General Secretary, Cochin Port Trust Staff Association, Kochi and the management is represented by the Chairman, Cochin Port Trust, Cochin.

3. On receipt of notices issued from this court management filed vakalat and the union secretary entered appearance in person. Union filed a claim statement raising the claims of the workman to which the management filed a written statement. Thereafter the case was pending for rejoinder and evidence. In spite of repeated chances the union did not file rejoinder and no evidence was adduced. Union was consecutively absent for the last three posting. The management's counsel was present. Under the above circumstances I am satisfied that the union and the workmen are not interested in prosecuting the dispute thereby it can be found that there is no pending industrial dispute between the parties to be adjudicated by this court.

In the result, an award is passed finding that there is no pending industrial dispute between the management of Cochin Port Trust and its workmen represented by the General Secretary, Cochin Port Staff Association to be adjudicated by this court.

Ernakulam, N. THULASI BAI, Presiding Officer
26-9-2001.

नई दिल्ली, 5 दिसम्बर, 2001

का. प्र. 3518.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार हिन्दुस्तान कॉपर लि. के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारियों के बीच, प्रत्यक्ष में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण धनदत्त के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार की 23-11-01 को प्राप्त हुआ था।

[सं. एल.-43011/6/94-आई आर (एम)]
बी. एम. डेविड, प्रवर सचिव

New Delhi, the 5th December, 2001

S. O. 3518.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Dhanbad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management Hindustan Copper Ltd. and their

workmen, which was received by the Central Government on 23-11-2001.

[No. L-43011/6/94-IR (M)]
B. M. DAVID, Under Secy.

ANNEXURE BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

PRESENT

Shri B. Biswas,
Presiding Officer.

In the matter of an Industrial Dispute under section 10(1)(d) of the I.D. Act., 1947

REFERENCE NO. 116 OF 1995

PARTIES : Employers in relation to the management of Hindustan Copper Ltd. and their workman.

APPEARANCES :

On behalf of the workman : Shri D. Mukherjee,
Advocate and
Shri K. Chakravorty,
Advocate.

On behalf of the employers : Shri B. Joshi,
Advocate.

State : Jharkhand Industry : Copper.

Dated, Dhanbad, the 5th November, 2001.

AWARD

The Govt. of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act., 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-43011/6/94-I.R.(Misc.), dated, the 28th/29th Aug., 1995.

SCHEDULE

"Whether the action of the management of M/s. Hindustan Copper Ltd., Indian Copper Complex, Moubhandar in dismissing S/Shri S. Singh Deo and B.N. Barik is justified? If not, to what relief the workmen are entitled?"

2. The case of the concerned workmen as per W.S. in brief is as follows :

The concerned workmen in their W.S. submitted that they were employees under the management as Senior Technical Supervisor and Blaster Asstt. It has been alleged by them as they were involved in the union activities the management was very much displeased with them and for which they wanted to get rid of them in any manner whatsoever and not only the management dismissed them without issuing any chargesheet and show cause but also initiated

criminal proceeding against them. It has been further submitted by the workmen that after the order of dismissal passed by the management all efforts were taken to reconcile the dispute but their attempt went in vein and for which they preferred Writ Petition before the Hon'ble High Court, Patna, Ranchi Bench challenging the order of dismissal dt. 11-3-94 issued by the management against them. It has been submitted by the workmen that the Hon'ble High Court after hearing the said Writ Petition was pleased to quash the order of dismissal dated 11-3-94 passed by the management. But in spite of quashing that order the management did not consider necessary to reinstate them to service and there by violated the order of the Hon'ble High Court. As a result an industrial dispute was raised before the ALC(C), Chaibasa which resulted reference to this Tribunal.

3. The management on the contrary after filing W.S.-cum-rejoinder have denied all the claims and allegations which the concerned workmen asserted in their W.S.

The points for decision in this reference are :-

"Whether the action of the management of M/s. Hindustan Copper Ltd., Indian Copper Complex, Moubandar in dismissing S/Shri S. Singh Deo and B.N. Barik is justified? If not, to what relief the workmen are entitled?"

DECISION WITH REASONS

5. It is seen that in support of this reference case neither party has adduced any evidence. Considering the pleadings I find no dispute to hold that the concerned workmen were the employees under the management. I also find no dispute to hold that the concerned workmen were dismissed from service by order of the management dt. 11-3-94 without giving them any opportunity to show cause. Even the concerned workmen were not chargesheeted and no domestic enquiry was held. In course of hearing learned Advocate for the concerned workmen submitted that as the concerned workmen were illegally dismissed from the services of the management due to whimsical attitude they preferred Writ Petition before the Hon'ble High Court, Patna, Ranchi Bench challenging the order of dismissal dt. 11-3-94 passed against them by the management. Learned Advocate for the concerned workmen further submitted that the Hon'ble High Court by order dt. 7/19-4-95 in disposing of the said Writ Petition observed "In that view of the matter, it was incumbent upon the respondents to initiate a departmental proceeding and/or issue a proper notice before passing the impugned order. That having not been done this Court has no alternative but to quash the order dt. 11-3-94. However, it will be open for the respondents, if they so desire, to proceed in accordance

with law". The observation of the Hon'ble High Court speaks clearly that the order of dismissal dt. 11-3-94 issued by the management against the concerned workmen was quashed and as such it is clear that no such order of dismissal stands against the concerned workmen. It is seen that against the said order of the Hon'ble High Court the management did not prefer any appeal before the Hon'ble Apex Court. Therefore, under the prevailing circumstances it is clear that the concerned workmen are to be considered as the employees under the management. It is the contention of the concerned workmen that in spite of the said order of dismissal the management did not consider necessary to reinstate them. The matter in issue is quite different one and for which the concerned workmen had the scope to take appropriate steps against the management for violation of the order passed by the Hon'ble Patna High Court, Ranchi Bench. When no such order of dismissal stands, I have failed to understand how the concerned workmen have made this reference again. Over the self same issue it is not expected that another order is required to be passed particularly when Hon'ble High Court has already quashed the order of dismissal against the concerned workmen passed by the management. As such after careful consideration of all the facts and circumstances I hold that the instant reference is not maintainable in the eye of law. The concerned workmen will be at liberty to take appropriate steps against the management if the management refused to reinstate them in service violating the order of the Hon'ble High Court, Patna, Ranchi Bench. An Award is passed accordingly.

B. BISWAS, Presiding Officer.

नई दिल्ली, 5 दिसम्बर, 2001

का. आ. 3519:—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारत गोल्ट मार्टिन के प्रबंधन के संबंध निषेधकों और उनके कर्मचारियों के बीच, अनुबंध में निषिद्ध औद्योगिक विवाद में श्रम सत्याग्रह, उदयपुर के पंचद को प्रकटित करती है, जो केन्द्रीय सरकार को 23-11-2001 को प्राप्त हुआ था।

[सं. एल. 43012/7/99-आई.आर. (एम.)]

बी. एम. डेविड, प्रवर सचिव

New Delhi, the 5th December, 2001

S.O. 3519.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Industrial Tribunal, Udaipur as shown in the Annexure, in the industrial dispute between the

employers in relation to the The Project which was Manager, Bharat Gold Mines Ltd. and their workmen, received by the Central Government on 23-11-2001.

[No. L-43012/7/1999-IR(M)]

B.M. DAVID, Under Secy.

अनुबंध

न्यायालय : न्यायाधीश, औद्योगिक विवाद अधिकरण एवं श्रम

न्यायालय, उदयपुर

पीठासीन अधिकारी : श्री पी एन खण्डेलवाल, आर एन जे एस
औद्योगिक विवाद संख्या 14/99(सी)

बाई जॉनसन पुत्र यमुदास, निवासी मकान नं. 14, मार्फेट
सेंटर राजपुरा दरीबा मार्ईन्स, जिला राजसमंद ---प्रार्थी
बानाम

कार्यप्रभारी, भारत गोल्ड मार्ईन्स लि., राजपुरा, दरीबा
मार्ईन्स, जिला राजसमंद

---विपक्षी

उपस्थित—

प्रार्थी की ओर से : श्री राजेश सिंघवी

विपक्षी की ओर से : कोई उपस्थित नहीं

उदयपुर, 10 अक्तूबर, 2001

भारत सरकार के श्रम विभाग द्वारा जरिये पत्र क्रमांक
एल-43012/7/99/आई.आर. (एम.) दि. 4-10-99 द्वारा
निम्न आशय का प्रसंग इस न्यायालय को प्रेषित किया गया।

“Whether the action of the management of Bharat Gold Mines Ltd. in terminating the services of Shri Jhonson without following the procedure laid down under the I.D. Act and S.O.S. Act is justified? If not, to what relief the workman is entitled?”

उक्त आशय का प्रसंग प्राप्त होने पर न्यायालय द्वारा दिनांक 22-12-99 को दर्ज रजि. किया जाकर पक्षकारों को नोटिस जारी किए गए जिस पर प्रार्थी की ओर से क्लेम पेश किया गया।

संक्षेप में प्रार्थना पत्र के तथ्य इस प्रकार हैं कि प्रार्थी को विपक्षी ने दि. 1-3-86 को प्लास्टर कम डीलर हेल्पर पद पर नियुक्त किया। दि. 5-12-87 को प्रार्थी विपक्षी संस्थान में कार्य के दौरान दुर्घटनाग्रस्त हो गया जिससे उसके सीने की हड्डी में फ्रैक्चर हो गया। प्रार्थी दिनांक 21-12-87 से 2-3-88 तक लगातार इलाज में रहा। प्रार्थी दि. 2-3-88 को फिटनेस प्रमाण पत्र लेकर इयटी पर उपस्थित हुआ तो उसे और आराम करने को कह आगे इयटी पर लिए जाने का आश्वासन दिया। प्रार्थी हर दो तीन माह में विपक्षी संस्थान जाकर इयटी पर लिए जाने का निवेदन करता रहा लेकिन उसे इयटी पर नहीं लिया गया। प्रार्थी ने इलाज में हजारों रुपए खर्च किए लेकिन विपक्षी ने कोई भी राशि का भुगतान नहीं किया न किसी प्रकार के मुआवजे का भुगतान किया। दि. 2-3-88 को सेवा पृथक् करने से

पूर्व कोई आरोप पत्र या चेतावनी पत्र नहीं दिया, न कोई जांच कार्यवाही की गई न सुनवाई का अवसर दिया गया नोटिस या उसके एवज में नोटिस का भुगतान नहीं किया गया न किसी प्रकार के प्रतिकर का भुगतान दिया गया 240 दिन से अधिक की सेवाएं दी उसके साथ लगे श्रमिक आज भी कार्यरत हैं व उसकी जगह नए श्रमिक को नियुक्त किया गया। इस प्रकार सेवा मुक्ति अवैध है तथा प्रार्थी को पुनः सेवा में बहाल किया जाकर समस्त सेवा लाभ प्रदान कराए जावें।

प्रार्थना पत्र पेश होने के बाद विपक्षी को नोटिस जारी किए गए। विपक्षी को जवाब पेश करने के लिए कई अवसर दिए गए लेकिन विपक्षी की ओर से कोई जवाब पेश नहीं किया गया। अंत में दि. 1-8-2001 को विपक्षी के विरुद्ध एक पक्षीय कार्यवाही की गई।

प्रार्थी ने अपने प्रार्थना पत्र के समर्थन में स्वयं का शपथ पत्र प्रस्तुत किया लेकिन विपक्षी के उपस्थित नहीं होने से उससे प्रतिपरीक्षण नहीं किया जा सका। विपक्षी ने शपथ पत्र प्रस्तुत नहीं किया है। दस्तावेजी साक्ष्य में प्रार्थी को विपक्षी द्वारा दिया गया प्रमाणपत्र, प्रार्थी को विपक्षी द्वारा माह फरवरी 88 के वेतन के भुगतान के लिए लिखा पत्र, विपक्षी द्वारा प्रार्थी को पूर्व में दिया जांच कार्यवाही का नोटिस, प्रार्थी की वेतन रसीदें आदि पेश की गईं।

न्यायालय द्वारा सम्पूर्ण तथ्यों का अवलोकन किया जाकर प्रार्थी प्रतिनिधि की बहस सुनी गई जिसमें लगभग उन्हीं तथ्यों का विस्तार के साथ उल्लेख किया गया जिसका उल्लेख क्लेम में किया गया है। सभी परिस्थितियों पर विचार करने के उपरान्त यह देखना है कि इस प्रकरण में किस आशय का अवाई पारित किया जाना चाहिए।

प्रस्तुत प्रकरण में प्रार्थी को विपक्षी ने दि. 1-3-86 को विपक्षी संस्थान में प्लास्टर कम डीलर हेल्पर के पद पर नियुक्त किया था। दि. 5-12-87 को कार्य के दौरान प्रार्थी दुर्घटनाग्रस्त हो गया और उसके सीने की हड्डी में फ्रैक्चर हो गया जिसका इलाज दि. 20-12-87 तक विपक्षी संस्थान के चिकित्सा अधिकारी के अधीन चला। दि. 21-12-87 को इलाज के लिए उदयपुर रेफर किया गया और दि. 2-3-88 तक इलाज चलता रहा। दि. 2-3-88 को प्रार्थी फिटनेस प्रमाण पत्र लेकर इयटी पर उपस्थित हुआ परंतु विपक्षी ने उसे लेने से इंकार कर दिया। प्रार्थी के दिनांक 2-3-88 को सेवा पृथक् करने के पूर्व कोई आरोप पत्र या चेतावनी पत्र दिया गया हो या कोई जांच कार्यवाही की गई हो, ऐसा कोई दस्तावेजी पत्रावली पर उपलब्ध नहीं है। इस प्रकार प्रार्थी को औ. वि. अधि. के धारा 25 एफ को पालना किए बिना सेवा से पृथक् किया है जो अवैध व अनुचित है।

प्रार्थी सेवा मुक्ति के पश्चात् निरन्तर बरोजगार रह हो या उसने जीवन यापन के लिए कोई श्रम साधक कार्य किया हो, यह तथ्य प्रार्थी की साक्ष्य में प्रमाणित नहीं हुआ

है। अतः इस प्रकरण के समस्त तथ्य व परिस्थितियों को देखते हुए प्रार्थी को सेवा मुक्ति के पश्चात् वेतन व अन्य लाभ दिलाया जाना व्यापेक्षित प्रतीत नहीं होता है। तदनुसार यह विवाद अधिनिर्णीत किया जाता है।

अतः प्रबंधक भारत गोल्ड मार्बल्स लि. द्वारा प्रार्थी जानसन को दि. 2-3-88 को सेवा से पृथक् करना उचित एवं वैध नहीं है। विपक्षी पंचाट प्रकाशित किए जाने की तिथि से एक माह की अवधि के भीतर प्रार्थी को सेवा से पृथक् किए जाने के विनांक से पुनः प्लारटर कम हीलर हैल्पर के पद पर वर्तमान पर प्रचलित वेतन में सेवा में निरन्तरता के साथ पुनः पदस्थापित करे। प्रार्थी को पुनः सेवा में बहाल किया जाकर यह निर्देश दिया जाता है कि प्रार्थी विपक्षी कम्पनी से पिछले सारे वेतन के अलावा अन्य सभी लाभ प्राप्त करने का अधिकारी है। पंचाट प्रकाशनार्थ भारत सरकार को भंजा जैय।

(पी.एन. खण्डेलवाल), अध्यक्ष

नई दिल्ली, 3 दिसम्बर, 2001

का.आ. 3520.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार स्टेट बैंक ऑफ बिकानेर एण्ड जयपुर के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधि-करण एवं श्रम न्यायालय लखनऊ के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 29-11-2001 को प्राप्त हुआ था।

[सं. एल-12011/18/2001-आई आर (बी-1)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 3rd December, 2001

S O 3520.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal-cum-Labour Court, Lucknow as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of State Bank of Bikaner & Jaipur and their workman, which was received by the Central Government on 29-11-2001.

[No. L-12011/18/2001-IR(B-I)]

AJAY KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL-CUM-LABOUR COURT, LUCKNOW

Presiding Officer : Rudresh Kumar
Adjudication

I.D. No. 157/2001

Refer. No. L-12011/18/2001/IR(B-I) dated 7-9-2001
BETWEEN

Asstt. General Secretary

State Bank of Bikaner & Jaipur Staff Association
C/o Bisheshwarganj Branch
State Bank of Bikaner & Jaipur
Varanasi (U.P.) (espousing cause of S.K. Misra & S.B. Singh)

AND

The Branch Manager
State Bank of Bikaner & Jaipur,
Bisheshwarganj
Varanasi

AWARD

By order No. L-12011/18/2001/IR(B-I) dated 7-9-2001, the Central Government in the Ministry of Labour, in exercise of powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of I.D. Act, 1947 (14 of 1947) referred this industrial dispute between the Asstt. General Secretary, State Bank of Bikaner & Jaipur Staff Association, Varanasi and the Branch Manager, State Bank of Bikaner & Jaipur, Varanasi for adjudication.

The reference is produced as under:

"Whether the action of the management of State Bank of Bikaner & Jaipur, Varanasi, in stopping the Special Asstt. Allowance of Shri S.K. Misra and Shri S.B. Singh from August 2000 stating that posts not notified/Identified by the management is justified? If not, what relief the employees are entitled?"

2. On receiving the reference, notices were sent to the parties viz: the Branch Manager, State Bank of Bikaner and Jaipur, Bisheshwarganj, Varanasi and the Asstt. General Secretary, State Bank of Bikaner & Jaipur Staff Association, Varanasi. Management did not respond.

The workman submitted a letter, signed by Mr. R.P. Tripathi, Asstt. General Secretary, State Bank of Bikaner & Jaipur Staff Association, Varanasi which mentions that the case of Sri S.K. Misra (Special Asstt.) and Sri S.B. Singh (Teller) had since been decided internally and they are getting claimed allowances and, also, that in view of the said facts, the case be closed and award be given accordingly.

3. Claim statement has not been filed. The workman by its letter dated 17-11-2001 has requested for closure of the case, since the grievance of the S.K. Misra and S.B. Singh are no longer survive to be adjudicated. Accordingly "No Claim Award" is given without entering into merit of the case.

4. Award as above.

Lucknow, 22-11-2001

RUDRESH KUMAR, Presiding Officer

नई दिल्ली, 3 दिसम्बर, 2001

क्र.आ. 3521.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 अनुसरण में, केन्द्रीय सरकार स्टैंडर्ड चार्टर्ड बैंक, मद्रास के प्रबंधन के संबंध में नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय चेन्नई के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 29-11-2001 प्राप्त हुआ था।

[सं. एल-12012/139/96-आई.आर. (बी-1)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 3rd December, 2001

S.O. 3521.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal-cum-Labour Court, Chennai as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Standard Chartered Bank, Madras and their workman, which was received by the Central Government on 29-11-2001.

[No. L-12012/139/96-IR(B-I)]

AJAY KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Friday, the 16th November, 2001

PRESENT : K. KARTHIKEYA, Presiding Officer
INDUSTRIAL DISPUTE NO. 447/2001

(Tamil Nadu State Industrial I.D. No. 89/97)

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between Sri Y. Kumanan and the Management of Standard Chartered Bank, Chennai).

BETWEEN

Sri Y. Kumanan, : I Party/Workman

AND

The Senior Manager, : II Party/Management
Human Resources,
Standard Chartered Bank, Chennai
APPEARANCE:

For the Workman : M/s. Aiyar & Doliar, &
C.R. Chandrasekaran Advocates

For the Management: M/s. S. Ramasubramaniam
& Associates, Advocates

The Govt. of India, Ministry of Labour in exercise of powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of Industrial Dispute Act, 1947 (14 of 1947), have referred the concerned Industrial Dispute for adjudication vide Order No. L-12012/139/96-IR(B-I) dated 02-09-1997.

This reference has been made earlier to the Tamil Nadu State Industrial Tribunal, where it was taken on file as I.D. No. 89/97. When the matter was pending enquiry in that Tribunal, the Govt. of India Ministry of Labour was pleased to order transfer of this case from that Tribunal to this Tribunal for adjudication. On receipt of records from that Tribunal, the case has been taken on file as I.D. No. 447/2001 and notices were sent to the counsel on record on either side, informing them about the transfer of this case to this Tribunal, with a direction to appear before this Tribunal on 27-02-2001. On receipt of notice from this Tribunal, the counsel on either side were present with their respective parties and prosecuted this case further.

When the matter came up before me for final hearing on 09-10-2001, upon perusing the Claim Statement, Counter Statement, the other material papers on record, the documentary evidence let in on either side, hearing the arguments advanced by the learned counsel on either side and this matter having stood over till this date for consideration, this Tribunal has passed the following:

AWARD

The Industrial Dispute referred to in the above order of reference by the Central Govt. for adjudication by this Tribunal is as follows:

"Whether the action of the Management of Standard Chartered Bank, Madras in imposing the punishment of dismissal on Sri Y. Kumanan is legal and justified? If not, to what relief the workman is entitled "

2. The averments in the Claim Statement filed by the I Party/Workman are briefly as follows:

The I Party/Claimant Sri Y. Kumanan (hereinafter refers to as Petitioner) was appointed as a Clerk

on 1-12-1982 in Respondent/Management/Standard Chartered Bank. His father Mr. Yuvaraj was an officer in the Respondent/Bank for over 25 years and retired from service at his age of superannuation. The computer system was introduced in the branches of the respondent bank in 1986 including its Chennai office where the Petitioner was working. Each department in the Respondent/Bank is provided with computer terminals. Access to computer is strictly restricted and those of the Award Staff and officers who have to work on computers and have user identity and passwords known to the individual award staff/officer concerned only. Only the user identity holder can enter the system and operate it with the password. He only has the access. The system besides has the facility for locking the operation by the operator and if it is to be opened again user identity will be keyed in and the password is to be fed in for each operation otherwise the system will reject the operation. The father of the Petitioner maintains a S.B. Account in the bank. He had to go to Tirupathi between 29-11-93 and 9-12-94 and to Hyderabad between 11-12-93 and 20-12-92 in the midst of construction of his building. So he entrusted the Petitioner with the task of pursuing the construction work in his absence and authorised him to meet expenses thereof, for which purpose, he handed over the petitioner undated authorisation letters. The Petitioner was working in the clearing department in 1993. On 4-12-93 he prepared a voucher for withdrawal of a sum of Rs. 4600/- from his father's S.B. account bearing No. 15-2-96107 on the strength of the authorisation of his father, as this amount and thereabout was urgently required for defraying expenses for repairs in his father's house. He accordingly, initialled the column "prepared by" in the said voucher. As he was working in the clearing department, where he was routinely preparing vouchers for reversing entries effected by way of clearing, same narration due to force of habit was incorporated in this relevant voucher also. The same was the case with regard to another similar voucher prepared by him on 11-12-93 in identical circumstances. Along with voucher for Rs. 4600/-, the authorisation letter therefor from his father was handed over to Mr. Selvaraj for making necessary entries in the S.B. Account of his father Mr. Yuvaraj in his S.B. Account. Thereafter he had withdrawn this sum of Rs. 4600/- by way of three withdrawals, the first one for Rs. 1000/- on the same day i.e. 4-12-93 and three other withdrawals aggregating to Rs. 3550/- two days later. Similarly on 11-12-93 he got transferred a sum of Rs. 900/- from his father's account to his S.B. Account for the purpose of making similar payments for the same purpose, on the basis of his father's another authorisation letter. For this purpose, the voucher 3854 GI/2001-16

prepared by him along with his father's authorisation letter was passed on to Mr. Selvaraj, a special assistant incharge for clearing department. After this sum of Rs. 900/- so credited to his S.B. Account he withdrew a sum of Rs. 800/- to make urgent payments for repair of his father's house. In the books of the branch, relevant entries were made as debit and credit entries in the S.B. Account of his father and his S.B. Account. These transactions were normal ones and the entries were passed according to the procedure laid down. These entries were made by the staff at the counter using their user identity words and their passwords which were unique. Those words are not known to any other members of staff. On 11-12-93, in the afternoon Mr. V. Srinivasan, Senior Manager (Operations), PB South called the Petitioner and made enquiries as to the missing of vouchers relating to Rs. 900/- that day. The Petitioner told him that he handed over the said vouchers along with the authorisation of his father and that the vouchers were misplaced along with the above said authorisation letter and he had kept duplicate of his father's authorisation on his arrival from Hyderabad. Mr. Srinivasan asked Mr. G.J. Kamalanathan, Manager, Customer service, to go into this matter and report back to him. He submitted a report on 13-12-93. But he did not call the Petitioner for any clarification in this regard. All of a sudden, the Petitioner was placed under suspension on 15-12-93 and he was informed that they have decided to hold a departmental enquiry. Subsequently the Petitioner received a letter dated 17-12-93 from the H Party/Management on 22-12-93 mentioning the alleged misconduct committed by the Petitioner. The charge memo did not contain any enclosure of documents or list of witnesses or list of documents. The Petitioner therefore, could not give his explanation to the charges. So he wrote to the Disciplinary Authority to furnish him the copy of the materials/documents on which the charges were based to enable him to reply the charges and requested for postponement of enquiry to a later date. In his absence in the house, the bank dropped a letter dated 27-12-93 at 3.00 p.m. conveying that the Petitioner had to inspect the records on the same day between 5.00 and 5.30 p.m. and to appear for enquiry on the following day at 3.30 pm. Therefore, he could neither go to the branch before 5.00 p.m. for submit his explanation to the charge sheet at 10.00 A.M. on 28-12-93. On 28-12-93, the Petitioner's representative requested for sufficient time to prepare and plan his defence. But the Enquiry Officer declined his request. Hence, the defence representative raised initial objections at the enquiry. But the Enquiry Officer did not give any valid clarification. He mechanically conducted the enquiry and examined five witnesses for the management. 12 documents were marked as management exhibits. The Petitioner

himself had examined as defence witness and three documents were marked on his side. No oral or documentary evidence was adduced in the enquiry to prove the allegations in the charge sheet against the Petitioner. The findings of the Enquiry Officer dated 28-1-94 has no basis. He gave the findings based on surmises, presumptions and assumptions. His findings are ill conceived, perverse and violation of principles of natural justice, fair play and bereft of any application of mind on his part. The Disciplinary Authority by his letter dated 28-01-94 found the Petitioner guilty of all the allegations mentioned in the charge memo and proposed a punishment of dismissal from service without notice and fixed a date for personal hearing. In the personal hearing the Disciplinary Authority informed the Petitioner that the hearing would be confined to the nature of the proposed punishment and no suggestion relating to the findings would be recorded or considered in the personal hearing. Hence, it is against the provisions of Bipartite Settlement of 1966. The Petitioner requested the Chief Executive by his letter dated 14-2-94 to intervene in this matter but it was not responded. The Petitioner submitted a letter dated 17-2-94 to the Disciplinary Authority stating that he would appear for personal hearing without prejudice to his right to make his submissions on the findings also. However, the Disciplinary Authority heard him only on the nature of proposed punishment and passed an order dated 19-2-94 imposing the Petitioner a punishment of dismissal from service without any notice. The Petitioner appealed against that order. The Appellate Authority after hearing the claimant at Chennai on 30-4-94 issued an order on the same day rejecting the Petitioner's appeal without any application of mind. It is perverse and erroneous. The punishment of dismissal imposed by the Respondent/Management is totally unjustified, arbitrary, a violation of principles of natural justice, vindictive and discriminative. The Petitioner has put more than 12 years of continuous service in the Respondent/Bank. This Hon'ble Tribunal has got powers to interfere with the punishment as per Section 11A of the Industrial Disputes Act, 1947 and to impose any lesser punishment, if considered necessary. Hence, it is prayed that this Tribunal may be pleased to pass an award holding that the dismissal of the Petitioner is not justified and direct the Respondent/Bank to reinstate the Petitioner with continuity of service, full back wages and all other attendant benefits.

3. The averments in the Counter Statement of the II Party/Management are briefly as follows :

The II Party/Management Standard Chartered Bank (hereinafter refers to as Respondent) admits that the Petitioner was appointed as a clerk in the

Respondent/Bank on 3-12-83 and the charge sheet dated 17-12-93 was issued to him. Apart from the Petitioner had fraudulently and dishonestly input the transactions in the computer as alleged in the charge memo, he had prepared false vouchers and also put forged signatures of other officers of the bank to show that the vouchers were authenticated and the input was effected by the regular data entry operators of the clearing department, though he had effected the input unauthorisedly and using password of Data Entry Operator Mr. N.D. Rajkumar. He had broken the seal of the bundle of vouchers of 4th December, 1993 and inserted forged vouchers prepared by him. A domestic enquiry giving full opportunity to the Petitioner was conducted. The Petitioner participated with the assistance of an official of the union of his choice. The enquiry was conducted in compliance with principles of natural justice. Witnesses have been examined by Respondent/Bank to prove the charges levelled against the Petitioner. Management witnesses were cross examined by the Petitioner through his chosen Union representative. Various documents were produced by the Respondent/Bank to prove the charges levelled against the Petitioner. The Petitioner was allowed to give his statements in the enquiry. After due analysis of oral and documentary evidence, the Enquiry Officer found that the charges levelled against the Petitioner were proved. Thereafter, a show cause notice was issued to the Petitioner as to why the proposed punishment of dismissal should not be imposed on him. Pursuant to the personal hearing, given to the Petitioner, he was dismissed from service by the Respondent/Bank without notice as per order dated 19-2-94 and in the appeal also the punishment imposed on the Petitioner was confirmed by the Appellate Authority. The punishment of dismissal was accorded only after following the due process and according to principles of natural justice. There has been no victimisation and no reason to do so by the Respondent/Bank. Any commercial undertaking like the Respondent/Bank expects high integrity from the employees. Since the Petitioner was employed in trust and he was found indulging in dishonest and fraudulent acts, the Respondent/Management cannot repose any confidence in him. If this Court comes to the conclusion that the enquiry conducted by the Enquiry Officer is not fair and proper, then an opportunity may be afforded to adduce additional evidence to prove the charges levelled against the Petitioner before this Court. This is a case wherein the workman has committed misconduct which is prejudicial to the interest of the bank. In view of the grave nature of the misconduct committed by the Management, the Management cannot repose any confidence in the workman. Therefore, the punishment of dismissal is justified and the same

cannot be interfered. Hence, this Hon'ble Court may be pleased to dismiss the claim petition.

4. When the matter was taken up for enquiry, by the consent of the counsel on either side, the documents were marked as Ex. W-1 to W-10 and M 1 to M-17. No one was examined as a witness on either side. The learned counsel on either side have advanced their respective arguments.

5. The point for my consideration is—

“Whether the action of the Management of Standard Chartered Bank, Madras in imposing the punishment of dismissal on Sri Y. Kumanan is legal and justified? If not, to what relief the workman is entitled?”

Point :

The Respondent/Management of Standard Chartered Bank, Madras had dismissed the petitioner/workman Sri Y. Kumanan from service. The said action of the Management is being challenged by the Workman Sri Y. Kumanan in this industrial dispute. It is admitted that the Petitioner was appointed as a clerk in the Respondent/Bank and he was issued a charge sheet dated 17-2-93 containing charges as incidence of misconducts committed by the petitioner/workman during his services of employee in the Respondent/Bank. Ex. W-3 is the xerox copy of the charge sheet dated 17-12-93 issued to the Petitioner. In pursuant to the issuance of the charge sheet, domestic enquiry was conducted for the charges levelled against the petitioner/workman. Ex. M-4 is the xerox copy of the proceedings of the departmental enquiry held into the charges levelled against the Petitioner. It is seen from that document that the charge sheeted employee the Petitioner herein had taken part in the domestic enquiry and he was represented by Vice President of Tamil Nadu Bank Employees Federation as defence representative. From the Ex. M-4 it is seen that 12 documents were marked as Management exhibits, apart from examining 5 witnesses as MW-1 to MW-5. On behalf of the Petitioner, charge sheeted employee apart from examining himself as defence witness, 3 documents were marked as defence exhibits. It is the contention of the Petitioner that the allegations in the charge sheet against the Petitioner were not proved in the domestic enquiry and hence, the findings of the Enquiry Officer dated 28-1-94 has no basis but it is based on surmises, presumptions and assumptions and his findings is ill conceive, perverse and violative of principles of natural justice and the Enquiry Officer has not at all applied his mind in considering both oral and documentary evidence let in on either side for coming to a proper conclusion. This contention

of the Petitioner has been denied by the Respondent/Management and they contend the enquiry was conducted fairly and in accordance with the principles of natural justice and the Enquiry Officer gave his findings after assessing the oral and documentary evidence placed before the enquiry by both sides. The charges levelled against the Petitioner is that on 4-12-93 he had fraudulently and dishonestly input the transactions in the computer and debited Rs. 4,600 the account No. 015 02-96107 of Mr. Yuvaraj and credited Rs. 4,600 from his account No. 015-02-96410 with the bank. It is the contention of the Petitioner that the S.B. account holder Mr. Yuvaraj is his father and he gave authorisation letters to withdraw amount from his S.B. account and with that letters only he had withdrawn the sums from the S.B. account of his father. It is his further contention that those authorisation letters were submitted to Mr. A. Selvaraj, Special Assistant for clearing department, but the Management would contend that the alleged authorisation letters were never in existence and it was not produced at all during any of the stages of the enquiry by the delinquent employee and it has not seen by Mr. Selvaraj, Special Assistant in the clearing department. Mr. Selvaraj also has denied such authorisation letters mentioned by the Petitioner. It is admitted that a sum of Rs. 4,550 withdrawn out of Rs. 4,600 credited to the account of the Petitioner from the account of his father Mr. Yuvaraj. It is also admitted that he has put his initial in the relevant vouchers column prepared by but the Petitioner would contend due to force of habit he had initialled the said vouchers. The fact that Mr. Yuvaraj account is debited and the Petitioner account is credited both on 4-12-93 and 11-12-93 were not disputed. For every debit and credit entry, there must be corresponding vouchers. From the materials available in this case, it is seen that the entries were made without vouchers. Ex. W-2 is a xerox copy of the memorandum dated 13-12-93 by the Manager, Customer Services to the Senior Manager Operations with regard to irregular transactions in Staff account. This memorandum has been marked as Ex. M-3 in the domestic enquiry, wherein it is stated about the irregular transaction taken place in the clearing department on 11-12-93 with regard to transfer of Rs. 900 from the account of Mr. Yuvaraj to Mr. Y. Kumanan's account without any instructions from Mr. Yuvaraj and without any proper authorisation of the Officer/Special Assistant. It is further stated in that memo that Mr. Y. Kumanan himself has posted the entry without proper vouchers and through User ID MAR of the clerk in the clearing department and the further investigation reveals that two more transactions taken place on 4-12-93 for Rs. 4,600 on similar grounds. The Petitioner has been examined as DW-1 in the domestic enquiry

1 is his evidence that Mr. C. J. Kamalanathan asked him how he had transferred Rs. 500 from his father's account without authority and that his father was going out of the town he had given him one letter of withdrawal dated 11-12-93 and it was found to be missing and that Sri C. J. Kamalanathan reported the matter to Mr. Srinivasan since the vouchers were not available. He explained the matter to Srinivasan and agreed to procure duplicate authorisation from his father and it is his further evidence that when he went to Nanganaller he found that he left for Hyderabad on 10th evening itself. Earlier in his evidence, he has stated that his father gave letter of withdrawal dated 11-12-93, if really his father had already left Hyderabad on 10th December, 1993, how he could have issued withdrawal letter dated 11-12-93 to the Petitioner. The fact that he had withdrawn Rs. 4,550 and Rs. 800 as stated in the charge memo are not disputed. Ex. M-15, M-16 and M-17 are the xerox copies of batch slip, debit slip and credit slip dated 4-4-93 respectively. In all these three documents, in the place prepared by the Petitioner only has initialled it. That shows all these three documents have been prepared by the Petitioner himself in his own handwriting and he has not disputed the same. From this it is seen that he has taken the initiative to debit and credit in the accounts and had withdrawn the amounts and whether they were done with the knowledge and the concurrence of his father is the matter to be proved only by the Petitioner, the delinquent employee himself in the domestic enquiry. The Petitioner as delinquent employee had examined himself as defence witness had chosen to mark Ex. -1 1A and 1B as three letters said to have been written by his father Mr. Yuvaraj. The xerox copy of those letters are Ex. M-1 and M-2 Series (1 and 2). Ex. M-2 series have been filed as duplicate letters without any dates and without mentioning the amount to be transferred from his savings account. Ex. M-1 is the letter dated 28-12-93 written by the father of the Petitioner stating that he had given two letters for withdrawal from his S.B. account to his son Mr. Y. Kumanan. The said Mr. Yuvaraj the father of the Petitioner has not examined as defence witness in the domestic enquiry. Why he gave such an authorisation letter without date and without mentioning the amount that too his son, who is not a stranger to him is not explained. He could have given blank cheques to his son. If a contention of the Petitioner is accepted as correct, that his father gave authorisation letter on 11-2-93, there is no authorisation for the transaction he has done on 4-12-93. In his evidence, he has spoken in the Chief Examination itself, about only one letter for withdrawal, said to have been given by his father as an authorisation. That too, when he already left for Hyderabad on 10th itself, how it could have been

possible is not explained. Sr. Manager Mr. Srinivasan who examined as MW-1 has spoken about Mr. C. J. Kamalanathan, Customer Services Manager came to him on 11-3-93 itself and brought to his notice about his attention was drawn by the Special Asstt. about his transaction for Rs. 900 in the accounts of the Petitioner and his father without any supporting vouchers and it is his evidence that at that time the Petitioner was called outside his cabin when called inside and told him that he made a serious mistake of inputting entries into the computer system without any vouchers. In cross examination also he asserted that while Mr. Y. Kumanan was in his room admitted that in fact he has posted the entries without vouchers. The Customer Service Manager Mr. C.J. Kamalanathan has been examined as MW2 in the domestic enquiry. He was also spoken about this fact and has given a consistent evidence to that of MW1. The Special Assistant in the clearing department Mr. Selvaraj was also examined as MW1. It is his evidence that as usual when he was checking the batches against printouts he found while checking that one batch was missing for one item Rs. 900 and when he saw the transfer was made by Y. Kumanan he asked him about the batch, he told him that there is no batch and he will produce the batch on Monday for transaction. He has also been duly cross examined by defence representative in detail. Further witness for the Management that the clerk in the clearing department Mr. Rajkumar has also been examined. When he was questioned about the posting the item Rs. 4600 appearing under User ID MAR, he said he did not post that item. He has also stated in his evidence, when he left the computer open without quitting from the system for attending some other work anybody can make any entry in that computer at that time and there by in the print out his ID will be reflected. Another clerk in the clearing department Mr. Raghunathan has also been examined as MW5 in the enquiry. He has also stated in his evidence that when he left the computer open for attending some other work somebody might have made entries in his computer and in that case his ID is reflected. Ex. M1 letter dated 28-12-93 said to have been issued by the father of the Petitioner it subsequent to the issuance of charge sheet Ex.W3 dated 17-12-93. Ex.W10 is the xerox copy of the letter dated 28-1-94 sent by the Disciplinary Authority to the Petitioner with a copy of the enquiry report. In the report of the departmental enquiry conducted by the Disciplinary Authority himself, reason has been given for his conclusion that the charges levelled against the Petitioner has been proved. The perusal of the report clearly shows

that he has analysed about oral and documentary evidence let in on either side and had come to a proper conclusion. From the available materials in this case, it is seen except the Petitioner Mr. Y. Kumanan nobody would have been interested in making such transaction of transferring of amounts from one S.B. account to another S.B. Account. Incidentally, here the accounts happens to be the Petitioner as well as his father's accounts. So, the perusal of the enquiry report clearly shows that the Enquiry Officer's findings are supported by evidence and he has given cogent and logical reasons for arriving at the conclusion that the charges levelled against the delinquent employee has been proved in the domestic enquiry. He has also clearly stated in his report the circumstances, the inferences drawn and also the compatibility of the Petitioner for committing the misdeeds. Admittedly the Petitioner has been working in the clearance department the accounts are only the Saving Bank department yet the transaction had been put forth in the clearance department. Both the clerks in clearing department MW4 and MW5 have stated that they have not put the transactions in the clearance department. So from all these things, it is seen except the Petitioner nobody would have been interested in making data entries into the computer in the clearance department for the transactions in the Savings Bank account in the savings bank account department. So under such circumstances, it is not correct to say that there was no documentary or oral evidence adduced in the enquiry to prove the allegations in the chargesheet against the Petitioner and the Enquiry Officer's findings has no basis on evidence, that it is based on surmises, presumptions and assumptions. It is also incorrect to say that his finding is ill conceived, perverse and violative of principles of natural justice and fair play. From the perusal of the enquiry proceedings, it is seen that the reasonable opportunity was given to the Petitioner and his contention that he was not given reasonable opportunity in the domestic enquiry is not correct. A chargesheet dated 17-12-93 was received by him on 23-12-93 the actual examination of witnesses commenced on 31-12-93. Nothing has prevented the Petitioner to give his explanation to the chargesheet prior to the commencement of the domestic enquiry on 31-12-93. So, it is incorrect to state that he was not given sufficient time to submit his reply for the chargesheet. Further his contention that he has not given sufficient time to reply to the enquiry report is also incorrect. So, from all these things, it is seen that this Tribunal cannot interfere with the findings of the Enquiry Officer since they are not perverse and not supported by any evidence. It is held by the Supreme Court in a case report 1998 1 III 629 Secretary to Govt. Home Department & Ors. Vs. Srivaigundam that

"the Tribunal cannot interfere with the findings of the Enquiry Officer unless findings are perverse and not supported by any evidence." From all these things it is seen that the contentions raised by the Petitioner in his Claim Statement that for his plea that the action of the Management/Standard Chartered Bank, Madras, in imposing punishment of dismissal from service against him as illegal and unjustified is not substantiated. On the other hand, there is ample evidence available in this case to come to the conclusion that the action of the Management of Standard Chartered Bank in imposing the punishment of dismissal on Sri Y. Kumanan is legal and justified. Hence, the concerned workman is not entitled for any relief. Thus, the point is answered accordingly.

6. In the result, an Award is passed holding that the action of the I Party/Management/Standard Chartered Bank, Madras in imposing the punishment of dismissal on Sri Y. Kumanan is legal and justified. Hence, the concerned workman is not entitled for any relief. No Cost.

(Dictated to the Stenographer, transcribed and typed by him, corrected and pronounced by me in the open court on this day the 16th November, 2001.)

K. KARTHIKEYAN, Presiding Officer

Witnesses Examined :

On either side : None

DOCUMENTS MARKED :

For the I Party/Workman :—

Ex. No.	Date	Description
W1	27-09-93	Xerox copy of the notice issued by Management
W2	13-12-93	Xerox copy of the memorandum from the Manager Customer Services, Madras to Sr. Manager, Operations
W3	17-12-93	Xerox copy of the chargesheet of the Petitioner issued by the Management
W4	23-12-93	Xerox copy of the proof of delivery of chargesheet and suspension order.
W5	23-12-93	Xerox copy of the letter from Petitioner to the Disciplinary Authority
W6	27-12-93	Xerox copy of the letter from the Disciplinary Authority to the Petitioner
W7	05-02-94	Xerox copy of the letter from the Petitioner to the Disciplinary Authority

W8	07-02-94	Xerox copy of the letter from Disciplinary Authority to the Petitioner	M15	04-12-93	Xerox copy of the batch slip No. CLTR03
W9	23-12-93	Xerox copy of the letter from the Petitioner to the Disciplinary Authority	M16	04-12-93	Xerox copy of the debit slip of Sri Yuvaraj.
W10	28-01-94	Xerox copy of the letter from the Disciplinary Authority to the Petitioner	M17	04-12-93	Xerox copy of the credit slip of the Petitioner.

Presiding Officer

नई दिल्ली, 3 दिसम्बर, 2001

For the II Party/Management :—

Ex. No.	Date	Description
M1	28-12-93	Xerox copy of the letter from Sri Yuvaraj to Disciplinary Authority
M2	Nil	Xerox copy of the letter from Sri Yuvaraj to the Management.
M3	15-12-93	Xerox copy of the letter to the Petitioner from the Disciplinary Authority
M4	28-12-93	Xerox copy of the enquiry proceedings
M5	17-01-94	Xerox copy of the memorandum from the Manager, Industrial Relations to the Senior Manager, Employee Relations.
M6	27-01-94	Xerox copy of the note to the legal Advisor from the Disciplinary Authority.
M7	19-02-94	Xerox copy of the things discussed at the executive centre.
M8	18-02-94	Xerox copy of the proceedings of the personal hearing granted to Petitioner
M9	19-02-94	Xerox copy of the dismissal order of the Disciplinary Authority
M10	02-04-94	Xerox copy of the letter from the Petitioner to Appellate Authority
M11	30-04-94	Xerox copy of the proceedings of personal hearing by the Appellate Authority.
M12	04-06-94	Xerox copy of the letter from the Head of Human Resources to the Petitioner
M13	22-05-95	Xerox copy of the letter from Petitioner to Assistant Labour Commissioner (Central)
M14	Nil	Xerox copy of the list of witnesses list of Documents relied upon by the Respondent.

का.द्रा. 3522—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मेट्रल रेलवे, मुम्बई के प्रबंधन के संबंधितों और उनके कर्मचारियों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण सं.-II, मुम्बई के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 29-11-2001 को प्राप्त हुआ था ।

[स.एन-41012/8/99-आई आर (B-I)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 3rd December, 2001

S.O. 3522.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal No. II, Mumbai as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Central Railway, Mumbai and their workman which was received by the Central Government on 29-11-2001.

[No. L-41012 8/99-IR(B-I)]

AJAY KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL NO. II,
MUMBAI

PRESENT

S. N. SAUNDANKAR, Presiding Officer
Reference No. CGIT-2/96 of 1999

Employers in relation to the Management of Central Railway, Mumbai.

The Divisional Railway Manager,
Central Railway, Mumbai Division,
Mumbai, C.S.T.
Mumbai 400001.

AND

THEIR WORKMEN

The Divisional Secretary,
Madhya Railway Karmchhari Sangh,
33, Moti Bhuvan,
Dr. D'Silva Road, Dadar,
Mumbai-400028.

APPEARANCES :

For the Employer.—Mr. Suresh Kumar,
Advocate.

For the Workmen.—Mr. M. B. Anchan,
Advocate.

Mumbai, dated 17th October, 2001

AWARD

The Government of India, Ministry of Labour, by its Order No. L-41012/899/IR (B-1), dtd. 11-5-1999, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947, have referred the following dispute to this tribunal for adjudication :—

“Whether the action of the General Manager, Central Railway, Mumbai, by not giving proper seniority, promotion and transferring the services of workman, Shri N. B. Joshi from HQ to Division by not following Departmental rules is justified? If not, what relief the workman Shri N. B. Joshi is entitled to?”

2. The workman Shri Joshi vide his Statement of Claim (Ex-4) pleaded that he was appointed as Substitute Asstt. Cook in the grade of Rs. 800-1150 in Central Railway, Mumbai C.S.T. on 26-6-89. Since his services were illegally terminated, he had filed Ref. No. 222 of 1991 before the C.G.I. T-2, Mumbai which was allowed vide Award dtd. 15-10-91 and that he was reinstated by the Railway on 6-10-89, but not on his original post in Mumbai. It is contended that on reinstating, the workman was transferred to Indian Railway Institute of Civil Engineering at Pune. However, as there was no post at Pune, he was sent back to Mumbai. According to him, he was not given seniority from 26-6-89. His junior Mr. Birendra Singh Thakur who was appointed on 9-1-90, was promoted as Cook in the scale of 950-1500 from 27-1-94 ignoring his seniority. The

workman therefore, contended that he is entitled to seniority and promotion from the date of his junior promoted as Cook i.e. from 27-1-94. It is contended that he was entitled to overtime wages since he is a line staff, however, that was not paid to him, therefore he had filed an application under section 33(c) (1) of the Industrial Dispute Act. The union espoused his cause by strike notice dt. 9-4-96 and thereafter the railway management removed him from Pantry Car and suspended on 26-8-96 against which, the Union had filed complaint dtd. 8-10-96 under Section 33-A of the Industrial Disputes Act, before the ALC (C), Mumbai. It is contended the management on that enraged and consequently, chargesheeted the workman on 31-10-96 against which, union gave a strike notice. His suspension order was revoked by Order dtd. 27-12-97 and immediately thereafter, it is contended by the workman that, he was transferred from Mumbai Division to Pune on 16-1-97 with malafide intention. He is staff attached to Head Quarter Office, Mumbai whose competent authority is Chief Commercial Manager, catering, Mumbai CST, however, he has been transferred by Senior Divisional Personnel Officer Central Railway, Divisional Office, Mumbai C.S.T. The union approached the ALC vide letter dtd. 30-7-98; however, Conciliation failed. Therefore, the instant reference contending that the workman was victimised for his trade union activities, following unfair labour practices, not giving him seniority and promotion and transferring him from Head quarters office to Pune, contrary to departmental rules. Therefore, he contends, he be given Seniority and Promotion and his transfer order be held illegal and unjustified.

3. The Management, Central Railway, resisted the claim of workman by filing Written Statement (Exhibit-6) contending that the tribunal has no jurisdiction to entertain and decide the reference. It is contended that the function perform by the Railway are Statutory in nature. The railway perform Sovereign functions in the welfare measure of its citizens, which are not provided by any profit motive individual and any deficit in the revenue. The service of Railway falls under Constitution of India and therefore Railway is not an industry. It is contended that Mr. Joshi is a Government Servant/Civil Servant. His services are governed by the statutory rules and regulations framed

under Article 309.311 of Constitution of India. Therefore Mr. Joshi being a Civil Servant and not the workman, provisions of I.D. are not applicable to him. It is contended that workman is appointed in a transferable post and he is liable to be transferred anywhere within the Statutory Unit. There is no vested right in the employee to be posted or continued to be posted at a particular place. His transfer Order was issued in the administrative nature by which workman does not get right to challenge the same which passed in the exigencies of services wherever the administrative need arises, therefore, the transfer order is proper and legal. So far seniority and Promotion is concerned it is contended the concept of Junior superceding the senior is not applicable where the promotion is by way of Selection method. Where there is selection, the junior if more meritorious to the senior would supersede his senior. After issuance of chargesheet to the workman he is not entitled to be promoted. It is contended that Mr. Birendra Singh Thakur belongs to ST category where as Mr. Joshi belongs to General category. None of the General category candidates have been promoted as cook. Shri Birendra Singh Thakur was promoted as per the rules and regulations of the Central Government. The workman cannot be compared with Mr. Thakur. It is contended that Mr. Thakur was appointed in SC/ST quota on 9-1-91 as regular Assistant-Cook in Grade of Rs. 800-1500 whereas services of workman were regularised w.e.f. 13-11-92. It is contended the management rightly promoted Shri Thakur, therefore, there is no substance in the contention of the workman on his Seniority and Promotion. For all these reasons the management contended to dismiss the claim of the workman.

4. By way of Rejoinder (Ex-7), the workman reiterated the recitals in the Statement of Claim and denied the recitals in the Written Statement. My Learned Predecessor on the rival pleadings of the parties, framed Issues at Exhibit-9. The workman Mr. Joshi filed affidavit (Exhibit-11), by way of Examination-in-Chief, who was cross-examined by the management and thereafter closed evidence vide purshis (Exhibit-12). The Asstt. Personnel Officer, Mr. P. M. Motwani in the office of Railway Department, filed affidavit Exhibit-13 and Mr. Gurunarsinghani Senior Personnel Officer, (Ex-14) by way of Examination-in-Chief and after this cross-examination by the workman

management closed the evidence vide purshis (Exhibit-15).

5. Union filed Written submissions at Exhibit-16 and the management (Exhibit-20). Heard the Learned counsels Shri Anchan for the Union/Workman and Shri Suresh Kumar for the management at length. I have gone through the written submissions. On perusing the record as above and hearing the counsels at length, I record my finding on the following issues for the reasons mentioned below :—

- | Issues | Findings |
|---|---------------|
| 1. Whether the tribunal has jurisdiction to decide the reference? | Yes. |
| 2. Whether the action of the management in not giving proper seniority to Mr. Joshi is justified ? | Yes. |
| 3. Whether the action of the management in not giving promotion to Joshi is justified ? | Yes. |
| 4. Whether the action of the management in transferring Joshi from Head Quarters to Division is justified ? | No. |
| 5. If not, what relief the workman is entitled to ? | As per order. |

REASONS

6. At the outset, the Learned Counsel for the Railway Management Mr. Suresh Kumar submits that services of Shri Joshi, Assistant Cook are governed under Article 309 of the Constitution of India and he is a Government Servant/Civil Servant and that Railway servant DAR 1968 are framed under the rules. The Central Administrative Tribunal would adjudicate the matters relating to Central Government Servants. He further submitted that the service of Railway is not for profit motive which is statutory in nature. Function performed by the Railway are welfare measure to its citizens which fall in the union list and therefore, Mr. Joshi is not a workman within the definition of Section 2(s) and the Railway is not an 'Industry' under Section 2(i) of the Industrial Dispute Act, therefore, this tribunal has no jurisdiction to entertain and decide the reference. The learned counsel Mr. Anchan urged that by catena of judgments it is clear that railway is an industry and that jurisdiction is conferred

upon the tribunal created by statute to deal with specific subjects which would not be excluded by virtue of Section 14 of the Administrative Tribunals Act. Their Lordships of Supreme Court in *L. Robert D'Souza Vs. Executive Engineer, Southern Railway* 1982 ILLJ pg. 330 para 25, clearly pointed out that the Railway is an industry. Their Lordship in *CST Mumbai Vs. Rajan Kumar Mohalik* 2000 III CLR 117, in para.4 clearly observed that Industrial Tribunal has jurisdiction since Section 15 of the Administrative Tribunal Act ousts the jurisdiction of the Civil Court and confer the same on the Tribunal created under it. In para. 4 *Krishna Prasad Gupta Vs. Controller. Printing and Stationery*, 1996 SCC (L & S) 264 it is observed as under :—

“Administrative Tribunal have been constituted under the Act made by the Parliament under Article 323 A of the Constitution for providing an exclusive machinery for the adjudication or trial of dispute and complaints with respect to recruitments, as also conditions as Vice of persons appointed to public services and posts, so as to cut down the time spent by public servants in litigation in ordinary courts and to provide them a relief at the hands of persons hearing and deciding service litigation exclusively.”

Reverting back to Section 14, we may immediately notice the striking feature that this section being with the words, “save as otherwise expressly provided in this Act” which constitute an extremely significant expression as they purport to constitute a “Saving Clause”. This expression has also been used in the opening paragraph of sub-section (3) of Section 14.

What is intended to be saved is indicated in Section 28 which incidentally, also purports to exclude the jurisdiction of almost all the courts in service matter. Section 14 and Section 28 have, therefore, to be read together to find out the real intent to the legislature as to the extent of jurisdiction retained or excluded.

In para. 21 it is observed as follows :—

“The ‘Saving Clause’ or the ‘Saving Phrase’ (not in the sense of “Repeals and Savings”) divides “jurisdiction” into the classes namely, “jurisdiction” which is transferred to and vested in the Tribunal and “jurisdiction” which is not so transferred, and is, on the contrary saved. When the jurisdiction thus became exercisable by the Tribunal, it was provided by Section 28 that no court shall exercise the jurisdiction, powers and authority on and from the date from which such jurisdiction, powers and authority becomes exercisable by a Tribunal It, however, excepts :—

- (a) the Supreme Court; or
- (b) any Industrial Tribunal, Labour Court or other authority constituted under the Industrial Disputes Act, 1947 or any other corresponding law for the time being in force.

In para. 22, their Lordships have observed as follows :—

“It is therefore, apparent that in spite of Section 14 of the Act, the jurisdiction of the Industrial Tribunal Labour Courts or other authorities, under the Industrial Disputes Act or Authority created under any other corresponding law remains unaffected”.

In para. 39, Their Lordships have observed that :—

“Learned Counsel for the respondent then contended that since clause (b) of Section 2 has been deleted by Act 19 of 1986 and the Act has been made applicable to all persons employed in industrial establishments and factories to whom the Act, as originally enacted did not apply, and the jurisdiction of all courts has come to be vested in the Tribunal.”. It is stated that this contention has no substance.

After the above observations Their Lordships have observed in para 40 as follows :—

“While deleting clause (b) from Section 2 as to make the Act applicable

to workmen etc. Parliament by the same Amending Act, namely, Act 19 of 1986, introduced clauses (a) and (b) in Section 28 so as to preserve the jurisdiction of the Supreme Court, the Labour Courts Industrial Tribunals and, as we have already found the Authorities under the Payment of Wages Act, which we have further found to be "corresponding law" within the meaning of clause (b) of Section 28."

7. On going through the definition of workman under section 2(s) of the Industrial Disputes Act in the light of the observations of Their Lordships of Apex Court it is apparent that Shri Joshi falls in the category of 'workman.' Consequently this tribunal has jurisdiction to decide the reference. Issue No. 1 is answered accordingly.

8. Once it is clear that this tribunal has jurisdiction to decide the reference points crop on the seniority, promotion and transfer of the workman. So far as seniority and promotion of Joshi is concerned, admittedly he was appointed as Substitute Assistant Cook in Grade 800-1150 in the Catering Department of Central Railway on 26-6-89. It is further admitted position that workman had filed Reference No. 22 of 1991 as he was dismissed from service and the same was ended in his favour by Award dtd. 15-10-91, resulting in his reinstatement. According to workman during the period of his dismissal one Birendra Singh Thakur who was appointed as Sub Asstt. Cook on 9-1-1990 was promoted as Cook in Grade Rs. 950-1500 from 27-1-94 ignoring his seniority. The Learned Counsel Shri Anchan inviting attention of this Tribunal to the voluminous documents on the record, and the written submissions urged that Thakur being junior should not have been promoted and therefore the question of Seniority also comes into picture. Railway, Asstt. Personnel Officer Mr. Motwani stated that workman was recruited as casual labour initially. He was regularised later on i.e. in 1992, whereas, Thakur was appointed as a direct recruit against the SC/ST quota in the year 1990. Since workman's services were regularised later on he was shown junior to Thakur, therefore, workman cannot become senior to Thakur. The Learned Counsel Shri Suresh Kumar submitted that Thakur was promoted by way of selection method and where there is selection, the junior if more meritorious to the

senior, would supersede him. None of the general category candidates have been promoted as Cook superseding workman. He urged with force that Thakur was promoted under the Reserved quota as per the Rules and Regulations of Central Government, hence he cannot be compared with workman. It is submitted that workman was regularised w.e.f. 13-11-92 and that Thakur was direct recruited in the year 1990, therefore, from this point of view also Thakur is senior to workman. Workman admits that except Thakur none was made senior to him.

9. Workman in his cross-examination dtd. 1-12-99 admitted that except Thakur no body else junior to him was promoted as Cook. At this juncture the Learned Counsel Mr. Anchan urged that Thakur had filed false caste certificate. Except bare words nothing to show to that effect. From the documents on record, it is clear that Thakur comes from reserved category and that he was given promotion under the Reserved quota as per the Rules and Regulations of Central Government. It is not that, candidate from General Category, junior to Thakur was promoted. Further as seen from the record, Joshi's services were regularised in 1992 whereas Thakur was recruited as direct substitute Assistant Cook, therefore his Seniority would be counted from the date of his recruitment, and from this point of view also, Joshi does not become senior to Thakur.

10. So far promotion is concerned as stated above, according to the management it is a matter of selection, and therefore merit counts. Admittedly workman was suspended and was reinstated by the Award dtd. 15-10-91. So far part of merit is concerned, the department can consider that aspect in the light of the record as a whole including C. R. Therefore hardly can be said that management was not justified in not giving seniority and promotion to workman..

11. So far the action of management in transferring Joshi from Head Quarters to Division is concerned, according to him, he is staff attached to Head quarter office where his seniority is to be maintained and that his Competent authority is Chief Commercial Manager, Catering, Mumbai, CST, whereas the Senior Divisional Personnel Officer by order dtd. 16-1-97 who has no authority to transfer him to Divisional Office Pune and that the said order is made with mala fide intention. The Learned Counsel Mr. Suresh Kumar,

inviting attention of this Tribunal to the documents filed on record submitted that the order of transfer is an incident of Government service. Courts/Tribunals are not expected to interdict the workman to administrative system unless transfer vitiates by malafides or violation of statutory provisions. Workman was transferred from Mumbai to Pune on administrative grounds, best known to the department.

12. While considering the point of transfer, two things are necessary to be carefully seen. First, Whether the authority which transferred Joshi was competent to transfer him? "and second Whether his transfer was with vindictive attitude". According to workman as stated above he cannot be transferred from H. Q. to Pune and that this authority is Chief Commercial Manager, Catering, CST and not Senior Divisional Personnel Officer. So far authority which transferred Joshi is concerned, Mr. Motwani disclosed that on administrative reasons i.e. to utilise the services of workman in a better manner, he had issued transfer order on the report of Head Quarters. He admits that workman was appointed by Chief Commercial Superintendent. He is unaware on the transfer, suspension and reinstatement of workman. Since Mr. Motwani states that on the report of H. Q's he issued the transfer order the Learned Counsel Mr. Anchan submits, transfer order is malafide in view of the report filed with affidavit (Exhibit-11). Report of one of the officers of the railway department dtd. 19-8-96 shows "Joshi had filed several court cases for promotion and overtime. Therefore he is suggested to transfer him to Mumbai Division where he would lose T.A. of about Rs. 800-900 per month which would be a punishment." Filing of cases to seek redress from the competent court/tribunal/authority cannot be said to be act contrary to law. In this context, report dtd. 19-8-96 referred to above, itself speak the animus of the concerned authority who transferred Joshi. It is in the evidence of Senior Personnel Officer Mr. Gurunasinghani that Joshi was appointed by the Head Quarters, Mumbai. Pune Division was not that time a Division. He pointed out that, Director RACL, Pune comes under the Railway Board. He is not aware on the rule by which Joshi was transferred from H. Q's to Bombay Division. Seniority list of workman was prepared by Bombay Division. Nothing to show that the authorities which transferred workman

was competent to transfer. The Learned Counsel Mr. Suresh Kumar urged with force that the issue of transfer was agitated before the Central Administrative Tribunal and thereafter before Their Lordships of Bombay High Court and, therefore, that issue cannot be reiterated, before this Tribunal, inviting attention also to the Written submissions (Exhibit-20). The Learned Counsel Mr. Anchan contended that since the point as regards transfer was raised before the Assistant Labour Commissioner (C) for conciliation Their Lordships did not deal that aspect and, therefore, this tribunal is competent to adjudicate that issue referred in schedule. On going through the record as a whole, and the peculiar circumstances, looking to the aspect of transfer in the light of the Principles of Natural Justice and fair play especially considering the report dtd. 19-8-96 the transfer order cannot be said to be justified and proper.

13. On going through the discussion supra and the record as whole it is therefore, clear that the management properly considered the Seniority and promotion of the workman Mr. Joshi and action to that effect of management is totally justified. However, action of the management in transferring workman Head Quarter to Division is not at all justified and, therefore, Issue No. 2 & 4 are answered accordingly. In view of this the following order is passed :—

ORDER

The tribunal has jurisdiction to decide the reference. Action of the management in not giving proper seniority to Mr. Joshi is justified.

Action of the management in not giving promotion to Joshi is justified. Action of the management transferring workman Joshi from Head Quarters to Division is neither legal nor justified. The management is therefore, directed to give him Original posting in Head Quarter, C.S.T. Mumbai.

S. N. SAUNDANKAR, Presiding Officer

नई दिल्ली, 4 दिसम्बर, 2001

कांआ० 3523.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार पश्चिमी रेलवे, अजमेर, के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारियों के बीच, अनवरत में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण एवं श्रम न्यायालय अजमेर के

टि को प्रकाशित करती है, जो केन्द्रीय सरकार को 12-2001 प्राप्त हुआ था।

[सं. एल-41012/16/2001-आईआर (बी-1)]
अजय कुमार, डेस्क अधिकारी

New Delhi, the 4th December, 2001

S.O. 3523.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal-cum-Labour Court, Ajmer as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Western Railway, Ajmer and their workman, which was received by the Central Government on 3-12-2001.

[No. L-41012/16/2001-IR(B-I)]
AJAY KUMAR, Desk Officer

अनुबन्ध

न्यायालय श्रम न्यायालय एवं औद्योगिक न्यायाधिकरण, अजमेर
सीआईटीआर 14/01

रेफरेंस नम्बर एल-41012/16/2001/आई.आर. (बी-1)
दिनांकित 11-6-2001

श्री महेन्द्र सिंह पुत्र श्री बाबू लाल निवामी तारागढ़ रोड, आवकारी
के पास, देवनगर, अजमेर —प्रार्थी/श्रमिक

बनाम

डी.आर. एम., पश्चिम रेलवे, अजमेर —अप्रार्थी/नियोजक
समक्ष

श्री राजेन्द्र सिंह राठौर, आर.एच.जे.एम.
प्रार्थी की ओर से श्री शोमित पंत एवं प्रार्थी स्वयं

अवार्ड

दि. 19-11-2001

प्रार्थी की ओर से एक प्रार्थना पत्र इस आशय का पेश हुआ है कि प्रार्थी की विपक्षी ने विधिक स्थिति को मानने हुए, सेवा में बहाल कर दिया है और वह वर्तमान में गांधीधाम में नियुक्त है। इसलिये इस प्रकरण में "कोई विवाद नहीं अवार्ड" पारित करने की प्रार्थना की है।

हमने पदावली का ध्यानपूर्वक अवलोकन किया एवं प्रार्थी पक्ष को सूना। प्रार्थी की संतुष्टि को देखते हुए इस प्रकरण में "कोई विवाद नहीं अवार्ड" पारित किया जाता है। अवार्ड की प्रति नियमानुसार केन्द्र सरकार को भेजी जाये

आर एम राठौर न्यायाधीश
श्रम न्यायालय एवं औद्योगिक न्यायाधिकरण, अजमेर
अवार्ड आज दि. 19-11-2001 को खुले न्यायालय में सुनाया गया।

राजेन्द्र सिंह राठौर, न्यायाधीश

नई दिल्ली, 5 दिसम्बर, 2001

अधिसूचना

का.आ. 3524.—आयोगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार स्टेट बैंक ऑफ इंडिया के प्रबंधन के संबंध में नियोजकों

और उनके कर्मचारियों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में आयोगिक अधिकरण I, हैदराबाद के पंचाट का प्रकाशित करती है जो केन्द्रीय सरकार को 4-12-2001 को प्राप्त हुआ था।

[सं. एल-12012/132/98-आईआर (बी-1)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 5th December, 2001

S.O. 3524.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal-I, Hyderabad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of State Bank of India and their workman, which was received by the Central Government on 4-12-2001.

[No. L-12012/132/98-IR(B-I)]

AJAY KUMAR, Desk Officer

ANNEXURE

BEFORE THE INDUSTRIAL TRIBUNAL-I AT
HYDERABAD

PRESENT :

Sri Syed Abdullah, B.S.C., B.L.,
Industrial Tribunal-I.
Dated : 7th day of November, 2001
I.D. No. 32 of 1999

BETWEEN

M. Chenganna,
Ex-Employee,
State Bank of India,
Kondur Branch,
Cuddapah District.

... Petitioner

AND

State Bank of India,
Rep. by its Assistant
General Manager,
S.B.I. Region IV,
Zonal Office,
Tirupathi.

.... Respondent

APPEARANCES :

Sri C. V. Mohan Reddy, Advocate for the Petitioner.
Sri B. G. Ravinder Reddy, Advocate for the Respondent.

AWARD

The Government of India, Ministry of Labour, New Delhi by its letter No. L-12012/132/98-IR(B-I) dated 20-3-99 referred the dispute to this Tribunal under Clause (d) of Sub-Section (1) and Sub Section 2(A) of the Section 10 of the Industrial Disputes Act, 1947 for passing an award on the following issues.

"Whether the action of the management of State Bank of India, Tirupathi in dismissing the Sri M. Chenganna, Ex-Clerk, Kondur Branch is justified? If not to what relief the workman is entitled?"

2. After appearance of the parties the workman and the management have filed their pleadings.

In the claim statement the workman had set out his case and briefly stated the facts are as under :—

The petitioner workman was appointed as Messenger in the respondents bank at Konduru Branch on 4-7-1974. Subsequently w.e.f. 1-3-1984 he was also promoted considering his satisfactory services. There was no complaint or remark during his service. While so, the Assistant General Manager, Region-IV of the bank in his letter dated 7-10-1992 had called for an explanation alleging that the workman had

prepared a voucher in respect of the Savings Bank Account of Sri C. Daswarian Account No. 66/10931 for Rs. 500 for remittance which he received from the depositor making an entry in the pass book. Later it came to light that he did not account for the money though he received it. However he made a fictitious entry in the pass book and misappropriated the amount. Similarly in the Savings Bank Account of Y. Venkatasubbamma Account No. 41/6784 when she approached the bank on 25-7-91 a voucher for Rs. 640 was prepared and that he received the same making the entry into a pass book without remitting into the bank. The fictitious entry was shown in the pass book. Similarly he received Rs. 7,000 from P. Subramanyam, Savings Bank Account holder No. 11/773. Without remitting the said amount he made a fictitious entry in the savings pass book and misappropriated the amount. So also in respect of the account holder of Smt. G. Venkatasubbamma Saving Bank Account holder No. 65/10771 for Rs. 3,000. The petitioner workman submitted a reply dated 7-10-92 denying the charges. An enquiry officer was appointed and the petitioner workman was defended by T. E. Jayaprakash Rao, Deputy General Secretary of the S.B.I. Staff Union. The enquiry officer had not followed the rules and regulations in conducting the enquiry as such it is violative of the principles of natural justice. The account holders were not at all examined during the enquiry. The documents were not produced during the enquiry, as such no cognizance can be taken in token of evidence as spoken by the witness. Sri T. Vishwanatham had deposed that he is not a trained person in comparing hand writings and there is a scope for omissions and mistakes in the identification of handwritings. Sri B. Rajender Naidu, Branch Manager, Konduru Branch did not confirm the initials appearing in the pass book that the same were noted by the petitioner-workman. So also T. S. K. Raghavan, had not confirmed the identity of the disputed entries and he could not identify the hand writing of the person who made the entries of Rs. 500 in Account No. 66/10931 of the Account holder Sri Eswariah. The account holders Smt. Subbamma, T. Subramanyam were not examined about the alleged payment of the amounts. The conclusions arrived at by the enquiry officer is erroneous and baseless. The disciplinary authority had not taken into consideration of the clean and spotless record of the workman. Hence prayed to set aside the impugned order of discharge dated 25-4-95 passed against him.

3. Denying the allegations, the respondent filed the Counter and briefly stated the averments are as under :—

The petitioner had committed irregularities tantamounting to serious misconduct, so he was issued with a charge sheet dated 7-10-92 calling for an explanation. He submitted explanation on 28-10-92 denying the charges. A regular enquiry was ordered and enquiry was conducted complying with the principles of natural justice. The bank managers were examined as PW1 and PW2 and they gave evidence on the basis of Ex. M1 to M16. After holding the enquiry complying with the principles of natural justice, the enquiry officer submitted his report on 1-12-93. A copy of the enquiry report was sent to the workman calling for his explanation. After considering the report and evidence, a show cause notice dt. 29-4-95 was issued proposing to impose punishment for the proved misconduct. A final order was passed on 20-10-95 after giving personal hearing. The workman had preferred an appeal which was duly considered and the appellate authority had confirmed the order on merits. The entries in the pass books and the books of accounts clearly establish that the workman had misappropriated the funds. The respondent being a financial institutions to discharge duties as trustees of public funds and can hardly afford the luxury of having such person who lacks integrity and loyalty to the institution. The fraudulent acts warranted imposing the punishment of dismissal but lesser punishment of discharge from service was imposed. The appellate authority had also decided the appeal on merits. Hence prayed to dismiss the claim.

4. The point for adjudication is whether the Petitioner-Workman is entitled for the relief of reinstatement, by setting aside the impugned order? The workman had disputed the domestic enquiry proceedings as violative of the principles of natural justice. During the preliminary inquiry, the prima facie evidence available on record was considered. As the workman was given an opportunity and that he participated in the enquiry, it was held that the domestic enquiry was conducted fairly in compliance with the principles of natural justice and the merits of the case will be considered at the stage of final arguments. The points to be adjudicated are

(1) Whether the evidence let in during domestic enquiry proceedings would establish the allegations of fraud and misappropriation alleged against the workman covered by the charge sheet dated 7-10-92. (2) Whether the punishment imposed discharging the workman from service is either proportionate or disproportionate under Section 11(A) of the I.D. Act. In the final arguments, the domestic enquiry records documents were marked as Ex. M1 to M13 by consent. The petitioner workman wanted to file the affidavits of some of the account holders and sought to be marked as Exhibits to disprove the allegations made in the charge. The living persons affidavits cannot be marked as exhibits so the same were rejected.

5. Ex. M1 is the charge sheet dated 7-10-92 in which the acts of omissions and commissions are attributed to the effect that the workman had forged the signatures of the account holders namely Eswariah, Y. Venkatasubbamma, P. Subramanyam, G. Venkatasubbamma which is a gross misconduct as per Banking rules. Ex. M2 is a 'one line' explanation of the workman denying the charges. Ex. M3 is the record pertaining to the domestic enquiry proceedings. Ex. M4 is a day to day enquiry proceedings recorded by the enquiry officer. Ex. M5 are the written objections that were submitted by the workman about evidence. Ex. M6 is the notice dated 29-4-95 issued by the disciplinary authority to attend for the personal hearing. Ex. M7 is the proceedings of the disciplinary authority in respect of the enquiry, the Ex. M8 is the proceedings recorded by the enquiry officer at the time of enquiry. Ex. M9 is the orders of the appellate authority confirming the punishment. Ex. M10 is the acknowledgement of the workman. Ex. M11 is representation of the workman. Ex. M12 is the order of punishment of discharge dt. 20-10-95 imposed by the disciplinary authority. Ex. M13 is a final order of the appellate authority confirming the punishment.

6. While defending the workman in respect of the charges levelled, it was argued that during the domestic inquiry the complainant/account holders were not examined, so the evidence on record cannot be given any weight and consideration. It is pointed out there is no evidence to show there was a misappropriation of the funds by the workman while discharging his duties. The interested testimony of the bank officials who are prejudicial to the workman cannot be taken as a criteria for imposing a disproportionate punishment of removing from service in contravention of Section 11(A) of I.D. Act.

7. On the other hand it was argued for the respondent bank that in the domestic enquiry proceedings strict rules of evidence Act need not be followed. In all probability the complainants who are the account holders subsequent to getting the amounts from the bank were not interested to prosecute and colluded with the Petitioner avoiding to give evidence. When the evidence is purely based on record which has been proved and established, it is not necessary to secure the presence of account holders. The staff who are very much familiar and acquainted with the handwriting of the workman in the day to day work and dealing with the transactions have confirmed the entries of the scrolls, vouchers and pass book. The main criteria is the reputation of the respondent bank who as a trustee of the public funds have to take care, and cannot take risk to continue unreliable employees in the service at the cost of bad reputation.

8. Under Ex. M1 dated 7-10-1992, the employer had initiated disciplinary action against the workman, by issuing a charge sheet alleging that while he was working as clerk in Savings Bank counter at Kodur branch he committed certain omissions and commissions viz.,

1. That an account holder (66/10931) had approached him on 5-12-1990 to prepare a voucher for crediting Rs. 500 into his account, which amount he had received made an entry in the Savings Bank pass book. Later it came to light that he did not account for the money so received and that he had made a fictitious entry in the pass book by misappropriating the amount that counting the same into the bank.
2. That an account holder Smt. Y. Venkatasubbamma bearing No. (41/6784) approached him on 25-7-1991 to prepare a voucher for crediting Rs. 640 into her account which amount he had received without remitting the same into bank's account. Further, that

he made a fictitious entry in the relative pass book by misappropriated the amount.

3. That the Account Holder Sri P. Subramanyam (Ag. 11/1733) approached him on 21-8-1991 to prepare a voucher for crediting Rs. 7000 into his account which amount he received without making an entry remitting the amount into bank and that a fictitious entry was made in the pass book by misappropriating the amount.

4. That Smt. G. Venkatasubamma Account holder (65/10771) had approached him on 10-10-1991 to prepare a voucher for crediting Rs. 3000 into her account, which amount he had received without remitting the amount into bank account. He misappropriated the amount by making fictitious entry in the relative pass book.

9. For the above said charges the workman submitted Ex. M2 a one lined explanation denying the charges levelled against him. To inquire into the matter, a regular enquiry was ordered by appointing an enquiry officer who conducted the enquiry on 23-2-93 onwards and thereafter recorded the statement and received documentary evidence.

10. During the enquiry, through the Presenting Officer, the Management had produced a complaint letter given by Sri Eswariah account holder No. 66/10931 and also produced the pass book which were marked as Ex. P1 and P2 for which no objection was raised by the defence. Another complaint given by Smt. Y. Venkatasubamma Account holder 41/6784 and her pass book were also got marked as Ex. P3 and P4 similarly the complaint of Sri P. Subramanyam Account holder Ag. 11/1733 and pass book were got marked as Ex. P5 and P6. So also the complaint given by Smt. G. Venkatasubamma Account holder 65/10771 and pass book were got marked as Ex. P7 and P8.

11. After marking the documents the Presenting Officer had produced the witnesses B. R. Naidu Branch Manager of Kodur branch as witness No. 1, who confirmed that the account holder Eswariah showed him Ex. P1 in which the entry was made by the workman putting his initials on 5-12-90. The witness further stated that on 6-2-92 Smt. Venkatasubamma gave a complaint which is Ex. P4 and in the pass book entry dated 25-7-91 was initiated by the workman. So also ascertained from the witness that Sri P. Subramanyam gave Ex. P6 and asked to tell about the entry dated 21-8-91 and the initials thereon, for which he positively stated that the workman had made the entry. He further stated that Ex. P7 complaint was given by Smt. Venkatasubamma presenting to him and that Ex. P8 dated 10-10-1991 was authenticated by the workman herein. Through the said witness the ledger sheets pertaining to the above named 4 account holders were got marked as Ex. P9 to P12 for which no objection was put forth by the workman. In the cross examination the witness was suggested whether he is acquainted with the signatures of all the customers on the bank for which the answer is that he may not be sure but with reference to specimen signatures of the account holders he could identify the same. He further stated from his experience in the bank he could able to identify hand writing and signatures.

12. The presenting officer also produced the specimen signatures of the account holders which were marked as Ex. P13 to P16.

13. The Presenting Officer introduced another witness T. K. Raghavan (PW2) who had expressed that he knew the workman and also identified the workman account holder Eswariah and he was asked to identify the hand writing in the pass books for which he expressed that he cannot confirm the hand writing. No further evidence was made in for the Management.

14. The workman had not adduced any oral evidence and sought permission to put forth statement in writing.

15. On the basis of the oral and documentary evidence the enquiry officer gave his findings in Ex. M4 in which with regard to Charge No. 1 he gave the findings holding that the defence is not tenable, in the light of the evidence to prove misappropriated of the amount by the workman who made entries in the pass book and it is natural that one

would try to disguise the writing so that he may not be caught in future. He observed that strict proof of evidence is not required in departmental inquiries as it depends on the preponderance and probabilities. Basing on the evidence available he found workman guilty of charge No. 1.

16. Regarding Charge No. 2 his findings are that the complainant need not be examined when the manager who had taken a complaint was examined and that the said witness had identified the initials of the entries. Second charge has held proved by the enquiry officer. It was observed that there is a satisfactory documentary evidence coupled with the statement of PW1 about identification of the handwriting of the workman made in the entries. So found that charge No. 3 was held proved. So also with regard to charge No. 4 about receiving payment of Rs. 3000 from G. Venkatasubamma Account holder 65/10771 and that a fictitious entry was made in the pass book. The P.O. has accepted evidence of the branch manager and the genuineness of the complaint, without the examination of the complainant.

17. A copy of the findings was sent to the workman for which he submitted his explanation to set aside the findings as there is no material against him in proof of the charge 1 to 4 levelled against him. The management had issued a show cause notice 29-4-95 as to why the punishment of discharge from bank services should not be imposed against him, as per provisions under Section 521(5)(e) of the SHASTRI AWARD (Para 8.28). Followed by it the disciplinary authority issued proceedings, and the workman was asked to appear before the authority. A personal hearing was given by disciplinary authority. The workman again submitted his defence and pointed out improbabilities in the enquiry findings. Finally the disciplinary authority issued Ex. M9 order confirming the punishment discharging from bank service and advised him to prefer an appeal was forwarded. The Appellant authority also came to the conclusion that the charges levelled against the workman are grave and since proved he confirmed the punishment.

18. In the defence taken up by the workman at no point of time he pointed out that he was not the concerned clerk of the Savings Bank Account who had received the payments from the 4 account holders at the bank as a clerk who had deal with the savings bank account branch and received the payments on the relevant dates from the 4 account holders. There is an ownerless responsibility on him to rebut the documentary evidence which stares at him which he could not get over. When the entries are in black white in the handwriting of the workman on the relevant dates he was on duty dealing with the savings bank account he has responsibility, to explain it. It is not a criminal case that burden will be on the prosecution and that he need not explain. When there is a prima facie case, showing evidence, the burden shifts on the workman who as a custodian of the records and trustee of payments to account for it. He failed to discharge the burden shifted on him. The suggestions made to the witness are vague. PW1 as a branch manager under whom the workman had worked made it clear the complaints and the entries made in the pass books.

19. PW2 was won over and so he stated that he cannot confirm the hand writing. The quality of the evidence is the criteria but not quantity. The evidence of PW1 coupled with the documents Ex. P1 to P13 is sufficient to hold that, the workman who had dealt with the Saving Branch was responsible, and he made the entries in the pass books on receipt of payments without showing corresponding posting in the ledger sheets of the account holders. Every transactions cannot be verified by the superior official. The workman having received the amounts was responsible to account for in the ledgers on the basis of ledger entries, cash will be handed over to the cashier who acknowledges the receipt of the amount of each day. It is a matter of trust and confidence between the Clerical Staff and Supervisory Staff. General Practice in the bank is that the concerned saving bank clerk at the counter would on receipt of payment from the account holder would make an entry in the ledger and notes down the corresponding remittance in the saving bank book and then remit the cash with the cashier. With reference to the ledger entries the cash had to be verified by the cashier and if nil entries are shown in the ledger it is deemed that no cash was received. Similarly when the Savings Bank clerk makes an entry in the pass book and returns it to the account holder, it is deemed that amount was received. The

transactions would come to light when the account holders go for withdrawal, at later point of time. Till a complaint is received by the bank manager he will not have an occasion to verify the entries and confirm as to who had dealt with the transactions on the relevant date. After verification he would refer it to vigilance section for probing into the matter. The official acts shall be presumed to be correct and it is for the person who disputes it has to rebut it showing the lacunae or defects in it. On a close scrutiny of the evidence on record it is clear that the workman as a Saving Bank Clerk having dealt with the money transaction of the 4 account holders had failed to account for the amount by misappropriating it which omission is a serious misconduct and by means of which the Banks reputation in the public got affected. The non-examination of account holders as witnesses was neither important nor fatal in a disciplinary action against the employee. It is only in Criminal Prosecution the standard of proof is high which requires examination of the complainants. In the decisions of the APEX COURT J. D. JAIN Vs. S.B.I. AIR 1982, S.C. Page 673, STATE OF HARYANA Vs. RATTAN SINGH AIR 1977, S.C. Page 1512 it was made clear that examination of the complainant is not essential and in domestic inquiries strict rules of Evidence Act are not applicable. Similarly, if there are relevant materials on record in the inquiry report and the inquiry officer based the findings on material facts the same cannot be reviewed vide Union of India Vs. K. A. Kittu, 2001. (88) F.L.R. (SC) page 244.

20. Section 11A of I.D. Act, 1947, comes to the rescue of an industrial workman if the management imposes severe punishment in trivial matters of misconduct but not in cases of grave misconduct, especially in white collared offences where the bank employee as a trustee while discharging duties fails to fulfil his obligation and commits breach by embezzling the amounts or misappropriating the funds deposited by the account holders, which will erode the reputation and functioning of the banking system. So, in such cases it is not desirable to show uncalled for sympathy as has been deputed by the Apex Court in S.B.I. Vs. TARUNKUMAR 2000 L.L.R. (S.C.) page 1274 IANATA BAZAR, CENTRAL COOPERATIVE STORES LIMITED Vs. SECRETARY OF THE SOCIETY 2000 L.L.R. S.C. Page 1271

21. Therefore on an over all consideration of the factual and legal aspects, a reasonable conclusion is arrived at that the acts of omission and commission of the workman amounts to serious misconduct which does not warrant any interference by taking a lenient view of it

22. In the result, an award is passed dismissing the claim and consequently the impugned order of discharge from service is hereby confirmed as legal and valid. No costs.

Dictated to the Shorthand Writer, transcribed by him corrected by me and given under my hand and the seal of this Tribunal on this the 7th day of November, 2001.

SYED ABDULLAH, Industrial Tribunal
Appendix of Evidence.

No oral evidence for both the sides.

Documents marked for the Petitioner :

NIL

Documents marked for the Respondent (By consent)

- Ex. M1 7-10-92 Show Cause Notice issued to the workman Sri M. Changanna to initiate action.
- Ex. M2 28-10-92 Denial letter submitted by the workman to Ex. M1.
- Ex. M3 Enquiry Proceedings enclosing the xerox copies of the documents.
- Ex. M4 Enquiry findings.
- Ex. M5 4-1-94 Representation submitted by the petitioner to the AGM and Disciplinary Authority
- Ex. M6 29-4-95 Order of the AGM and Disciplinary authority

Ex. M7 Proceedings of the disciplinary authority.

Ex. M8 20-6-95 Proceedings of the AGM regarding personal hearing.

Ex. M9 20-10-95 Order passed by the AGM Region IV and disciplinary authority having acknowledgement of the workman.

Ex. M10 25-10-95 Letter of the Branch Manager forwarding the appeal grounds to the AGM Region-IV and Disciplinary authority.

Ex. M11 6-11-95 Appeal submitted by the workman to the Dy. General Manager and Appellate Authority S.B.I. Zonal Office, Tirupally.

Ex. M12 20-10-95 Copy of Ex. M9.

Ex. M13 30-1-96 Order passed by the Deputy General Manager and Appellate Authority in the case of Sri M. Changanna.

नई दिल्ली, 5 दिसम्बर, 2001

का.अ. 3525.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुमर्ण में केन्द्रीय सरकार फेडरल बैंक लिमिटेड के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अन्तर्वेद में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण कोलम के पंचाद को प्रकाशित करती है, जो केन्द्रीय सरकार को 4-12-2001 को प्राप्त हुआ था।

[सं. एल-12012/158/96-आईआर (बी-1)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 5th December, 2001

S.O. 3525.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal Kollam as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Federal Bank Ltd. and their workman, which was received by the Central Government on 4-12-2001.

[No. L-12012/158/96-IR(B-1)]

AJAY KUMAR, Desk Officer

ANNEXURE

IN THE COURT OF THE INDUSTRIAL TRIBUNAL, KOLLAM

(Dated, this the 30th day of October, 2001)

PRESENT :

Sri P. V. Abraham.

INDUSTRIAL TRIBUNAL

IN

INDUSTRIAL DISPUTE NO. 1/98
BETWEEN

MANAGEMENT:

The Chairman, Federal Bank Ltd., Always.
(By Sri V. Mathew Kadavan, Advocate,
Trivandrum.)

AND

WORKMAN

Sri D. Rajendran Pillai, Rama Mandran,
Puthukurichi P.O., Trivandrum.

(By Sri. M. S. Vijayachandra Babu, Advocate,
Trivandrum).

AWARD

The Government of India as per Order No. L-12012/158/96-IR(B-1) dated 5-9-1997 referred this industrial dispute for adjudication to this Tribunal.

The issue referred for adjudication is the following:

"Whether the action of the management of Federal Bank Ltd., Always in dismissing Sri Rajendran Pillai, Clerk from service w.e.f. 30-8-1995 is reasonable and justified? If not, to what relief the workman is entitled?"

1. As per preliminary order dated 27-7-1999 my predecessor had found that the domestic enquiry was conducted properly in compliance with the principles of natural justice and the findings of the enquiry officer are valid and sustainable. The preliminary order mentioned above is extracted here under :

ORDER

The dismissal of Sr. D. Rajendran Pillai, Clerk, from the service of the management of Federal Bank Ltd. w.e.f. 30-8-1995, has resulted in this reference.

2. Sri. Rajendran Pillai, the workman in this case, was dismissed by the management after accepting the enquiry finding rendered by an enquiry officer who conducted a domestic enquiry into five charges levelled against the workman as per chargesheet dated 16-9-88 such as misappropriation of money, manipulation of accounts, unauthorised withdrawals of money, collusion with other employees of the Bank, fraud, cheating doing acts prejudicial to the interest of the Bank etc. The contention of the workman is that the enquiry is vitiated as the findings of the enquiry officer are perverse and not supported by legal evidence. He is therefore claiming reinstatement in service. On the other hand the management contends that there is no perversity in the findings of the enquiry officer and the findings are proper and valid. It is contended that their action is fully justified.

3. The workman has filed a detailed claim statement before this Tribunal in support of his case and the contents are briefly as under : The workman was a clerk in Ferumathura branch of the management bank. While working so his service had been dismissed as per order dated 30-5-1995 which is irregular and illegal. As per chargesheet dated 16-9-1988 the management levelled five charges against him. Though he had submitted explanation, the management ordered domestic enquiry and on the findings the disciplinary authority imposed the present punishment. The appeal filed by the workman was also rejected. The charges levelled against the workman alleges misappropriation of money, manipulations in the records, collusion with other employees of the

bank fraudulent entries in the records etc. The charges levelled against him are not specific and are based on surmises and conjectures. The charges are not definite. The charges are vague and uncertain. The enquiry was conducted disregarding principles of natural justice and the findings are perverse. The alleged collusion with other employees is not based on any evidence and there is no evidence in the enquiry to prove the fraudulent transactions/misappropriations etc. by the workman. The workman has to comply the directions of superior officers of the bank which resulted writing of remittance slip and calculation of rate of interest as part of the day to day work. There is no basis to presume that the workman had an interest or concern to regularise the misappropriations admittedly done by others. The charges are proved by the enquiry officer merely on the basis of interested testimony of the management witnesses and there are no independent witnesses. The workman is remaining unemployed since the date of dismissal and hence he is entitled for back wages for the period he was out of employment. It is further stated that the punishment of dismissal is highly grave and is not proportionate to the gravity of the allegations levelled against him. The prayer is for reinstatement in service with continuity of service, back wages and all other attendant benefits.

4. The contentions of the management are briefly as under : The workman had worked as a clerk during the period from 3-11-1976 to 26-9-1987 and during this period he was reported to have committed misappropriation/fraudulent transactions in various accounts of the branch in collusion with some other employees of the branch. The modes operandi was that when customers came to deposit money into their accounts workman and/or his associates accepted money under the pretext of helping them for remitting the money and send them back after making the entries in their pass book evidencing remittance. However the workman and his associates did not remit the money to the credit of the respective accounts and misappropriated the same. Later when the accounts holders of these manipulated accounts came for withdrawing money, the workman or his associates would either remit the money to the accounts to facilitate passing of the cheques or would pay it without routing the cheques through the accounts by arranging money by other means. He had also misappropriated an amount of Rs. 4,900 brought for remittance into one gold loan account of the branch that he made unauthorised withdrawals to the tune of Rs. 31,000 from three SB accounts that he remitted Rs. 46,840 in SB account of Smt. Ramla Kamal in order to compensate the earlier misappropriation of Rs. 43,500 from the account by another employee of the branch and to enable the customer to withdraw Rs. 78,000 from the account and that he posted higher amounts as interest in the pass book of Smt. Ramla Kamal so as to conceal the misappropriation committed in the said account. He was placed under suspension and an enquiry was conducted in accordance with the rules and upholding the principles of natural justice. The enquiry officer found the workman guilty of misconduct of doing acts prejudicial to the interest of the bank. After considering the various submissions of the workman on the enquiry report, the punishment of dismissal was

imposed. Specific acts of misdeeds reported to have been committed by the workman were narrated in the chargesheet issued to him which is proper, legal and valid and not based on surmises and conjectures. Charges were specific and definite. The workman was represented in the enquiry by an Advocate of his choice and he was afforded sufficient opportunity to defend his case. Sustainable evidence was adduced in the enquiry to prove the charges against the workman. Enquiry records revealed that the workman had colluded with some other employees of the branch in order to compensate one of such misappropriations committing various misappropriations he had paid Rs. 25,000 in the SB account No. 2183 on 22-10-1986. At the relevant time the workman was having about 14 years experience as clerk and his contention that he had acted merely as per the instructions of his superiors has no substance. Disciplinary action was initiated against few employees of the bank and domestic enquiries were ordered against them in April 1988 and the disciplinary action was completed in 1995. Independent and sufficient evidence have been adduced to prove the charges in the enquiry. The findings of the enquiry officer are legal, proper and valid and there is no perversity as alleged. For the gross misconduct proved in the enquiry the punishment of dismissal from service was imposed on the workman. It is proper and justified and which is only proportionate to the charges proved against him. Financial institutions like banks cannot repose confidence and retain employees who involved in misappropriation of money and committed other fraudulent transactions in the accounts. Therefore the claim of the workman for reinstatement does not deserve any merits and is only to be rejected.

5. Since the validity of the enquiry is under challenge that point was considered as a preliminary issue. The enquiry officer was examined as MWI and the enquiry file containing findings of the enquiry officer, enquiry proceedings, statement of witnesses and connected documents have been marked as Ext. M1.

6. The main points of attack against the enquiry are that the charges regarding which enquiry was conducted are vague, indefinite and not specific and also that the findings are perverse. The charges levelled against the workman as per chargesheet dated 16-9-1988 are narrated in detail in the claim statement of the workman. There are altogether five charges alleged misappropriation of money, manipulations in the bank records, collusion with other employees of the branch, unauthorised withdrawals etc. On a reading of the charges it is evident that charges are specific and clear. There is no difficulty in understanding the misconducts levelled against the workman. The workman has submitted explanation dated 30-9-1988 to the chargesheet which shows that he has understood the charges fully and clearly. In the explanation the workman has not stated that he could not understand the charges levelled against him and he has not requested for any clarification from the management. Moreover it is noticeable that the workman or his Advocate who assisted the workman in the enquiry, never made any complaint to the enquiry officer during the course of the enquiry that

the charges levelled against him in the chargesheet were not specific or indefinite. That being the position the present contention on behalf of the workman regarding the alleged vagueness of the charges can only be considered as an after thought and is liable to be rejected.

7. The next point of attack is that in charge numbers 2, 3 and 4 there is no allegation of any misappropriation of money by the workman and the misappropriation was alleged against other employees in the branch. Further the allegation against the workman under these charges is only collusion but the workman was punished for the main misconduct of misappropriation of money. It is true that under charges 2 to 4 no allegation of misappropriation of money is levelled against the workman. But the allegation of collusion with other employees who committed misappropriation was specifically alleged and proved in the enquiry. Therefore the contention that there was no allegation of misappropriation of money under these charges will not come to the rescue of the workman. The charge of misappropriation of money under charge No. 1 was not proved against the workman. Misappropriation of Rs. 4,500 by the workman alleged under charge No. 5 was admitted by him and he had remitted the amount. In the circumstances the argument that the workman is not guilty of the charge of misappropriation is devoid of merit.

8. According to the learned counsel for the workman the findings of the enquiry officer are perverse and there are no evidence to prove the charges levelled against the workman in the enquiry. It is also contended that there is no independent evidence but only the evidence of management persons who alone were examined in the enquiry. On a reading of the enquiry report it is abundantly clear that the enquiry officer has analysed the evidence let in on the side of the management under each charge separately and came to his conclusion. With regard to the manipulations in the bank records, fraudulent transactions in some SB accounts in collusion with some other employees have been proved by identification of the handwriting of the workman in the relevant registers. It was also proved that the workman posted higher amounts of interest in the Pass Book of customers so as to conceal the misappropriation committed in the said amount. The modus operandi adopted by the workman and his associates was clearly explained and found by the enquiry officer with supporting evidence documentary as well as oral. There is sustainable evidence in the enquiry to prove the charges against the workman. It was found that the relevant withdrawal forms does not bear the signature of the concerned account holders either on the face of the instrument or as drawer of the instrumentations or on the reverse side of them as acknowledgement for having received the money which is evident that the customers would not have received money in respect of those instruments. The depositions of witnesses recorded in the enquiry are supported by Pass Book, ledgers, vouchers, cheques, withdrawal forms etc. which is sufficient evidence to prove the charges against the workman. On the strength of this evidence the contention that no independent evidence has been let in by management does not deserve consideration. The evidence of witnesses examined on the side of management clearly establishes the

charges and merely because they are employees of management their evidence cannot be brushed aside particularly on the ground that there are no reasons to disbelieve or discredit their testimonies. On going through the findings of the enquiry officer along with depositions of witnesses and documents it is clear that there is no perversity in the findings of the enquiry officer. On the other hand the findings recorded by the enquiry officer are based on legal evidence and are proper and valid.

9. There is yet another contention that the worker has to obey the instructions of his superior officers and he has only discharge his duties as directed by the superiors. It is also contended that the usual practice in the bank is to write vouchers, withdrawal forms etc. by the employees of the bank to help the customers and he has only done that and there was no fraudulent action against the interest of the bank. It is stated in the written statement of the management that the workman during the relevant time was having about 14 years experience as clerk in the bank and hence the contention that he had acted merely as per the instructions of his superiors has no sustenance. It is also pertinent to note that the withdrawal forms prepared by him did not bear the signatures of the account holders either on the face of it or on the reverse side as token of having received the cash which is evident that the customer would not have received money. In the light of such specific evidence the present contention that he was only acting as per the instructions from the superiors and hence he is innocent cannot stand for a moment and is only to be brushed aside.

10. There is no allegation of any irregularity in the enquiry. The workman was duly represented by an Advocate of his own choice and he was afforded reasonable opportunities to participate in the enquiry and to adduce evidence on his side. The enquiry was conducted fully in compliance with principles of natural justice.

11. For the foregoing discussions, I hold that the enquiry was conducted fully in compliance with principles of natural justice and the findings of the enquiry officer are proper, valid and supported by legal evidence.

12. The charges found to be proved against the workman were that he had committed misappropriation, colluded with other employees for committing misappropriation, manipulation of accounts etc. The charges proved against the workman is very grave and serious and the punishment of dismissal awarded to the workman is proportionate to the misconduct proved against him. In the circumstances I hold that the workman is not eligible for any relief.

IV. In the result, an award is passed holding that the workman is not eligible for any relief.

P. V. ABRAHAM, Industrial Tribunal

APPENDIX

Witness examined on the side of the Management.

MW1.—Sri C. Raghunandanan,

Document marked on the side of the Management.

Ex. M1.—Enquiry file containing, enquiry proceedings, findings, statement of witnesses and connected documents.

नई दिल्ली, 5 दिसम्बर, 2001

का.आ. 3526.—औद्योगिक विवाद प्रावधान, 1947 (1947 का 14) की धारा 17 के अनुवर्ण में, केन्द्रीय सरकार स्टेट बैंक ऑफ इंडिया के प्रबंधन के संबंध में निम्नलिखित औद्योगिक विवाद से औद्योगिक अधिकरण-1 हैदराबाद के पक्षों को प्रभावित करती है, जो केन्द्रीय सरकार को 4-12-2001 को प्राप्त हुआ था।

[सं.गन-12012/332/98-आईआर (बी.1)]

अजय कुमार, बैंक अधिकारी

New Delhi, the 5th December, 2001

S.O. 3526.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal-I, Hyderabad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of State Bank of India and their workman, which was received by the Central Government on 4-12-2001.

[No. L-12012/332/98-IR(B-I)]

AJAY KUMAR, Desk Officer

ANNEXURE

BEFORE THE INDUSTRIAL TRIBUNAL-I AT HYDERABAD

PRESENT :

Sri Syed Abdullah, B.Sc., B.L., Industrial Tribunal-I.

Dated : 17th day of October, 2001

Industrial Dispute No. 25/1999

BETWEEN

D. S. Ravi Raj,
Lake View Colony,
Door No. 25/1-977,
9th Lane, Podalakur Road,
Nellore.

Petitioner

AND

State Bank of India,
Zonal Office,
Thirupathi.

Respondent.

APPEARANCES :

Sri C. V. Mohan Reddy, Advocate for the Petitioner,

Sri B. G. Ravindra Reddy, Advocate for the Respondent.

AWARD

The Government of India, Ministry of Labour, New Delhi by its letter No. L-12012/332/98/IR (B-I) dated 26-02-1999 referred the dispute to this Tribunal under Clause (d) of Sub-section (1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 for passing an award on the following issues :

“Whether the action of the management of State Bank of India in imposing the punishment of discharge from duty upon Sri D. S. Ravi Raj is legal and justified? If not, to what relief the workman is entitled?”

2. After the appearance the parties have filed their respective pleadings. In the claim statement the petitioner-workman has set out the facts of the case which is as under :—

That he was appointed as Clerk-cum-Cashier in the respondent's Bank in 1980. During his service there were no complaints against him. While so, the Assistant General Manager, Region-II, of the respondent Bank issued separate letters dated 12-10-1993 and 30-8-1994 calling for explanation alleging that he committed misconduct. In the first letter it was alleged that he encashed Savings Bank withdrawal for Rs. 10,000 purported to have been drawn from the savings bank account, No. 19/4082 of Sri D. N. Swamidoss. It was alleged that the depositor's signature was forged by the workman and he received payment at Nellore town branch. Further alleged that on 26-10-1990 the workman had received Rs. 1000 tendered by Shri G. Koteswar Rao for crediting in the Recurring Deposit Account No. 23/4340 stands in the name of Mrs. A. Paravathi at Nellore Branch and that he issued a counter foil for the amount but failed to account for the said amount into the bank. Also alleged that he made fictitious entry in the relative pass book of the depositors and got authenticated by a Supervising Official of the Branch. Thus he had misappropriated an amount of Rs. 1,000 received by him on 26-10-90.

3. Further alleged that he encashed the under mentioned Savings Bank withdrawals at Nellore Branch purported to have been drawn on S.B. Account No. L6/2007 of Kum. R. Sobha Rani.

Date of SB Withdrawal	Amount Rs.
21-11-1988	2,000
26-11-1988	500
29-11-1988	200

It was transpired that he had forged the signature of a depositor on the Savings Bank withdrawal and received payments from the branch to have a wrongful gain.

4. Further it was reported that on 30-7-1995 he had negotiated at Nellore Branch by withdrawing Rs. 200 from the Savings Bank A/c. from his A/c.

S.35 at Maypaud Branch without keeping sufficient balance in his account. The D.D. was returned to the Nellore Branch as there was a balance of Rs. 11.20 only in his account.

5. Further it was reported that on 4-8-1993 he had negotiated at Nellore Branch, a Savings Bank withdrawal for Rs. 200 drawn against his Savings Bank Account No. S.35 without maintaining sufficient balance in his account at Maypaud Branch.

6. Further reported that on 8-6-1993 he had negotiated at Nellore Branch Savings Bank for withdrawal of Rs. 100 drawn against his S.B. A/c. S.35 Maypaud Branch without maintaining sufficient balance in his account. Thus he had negotiated the withdrawals without keeping adequate funds in his account with deliberate intention of gaining temporary use of bank's funds for his personal benefit.

7. Further reported that he had issued a Cheque bearing No. 186936 dated 29-9-93 for Rs. 1,400 favouring of M/s. Sri Sainath Financiers drawn on his S.B. Account at Nellore Branch and the same has been reported to the Bank of Baroda due to insufficient balance in his account, which clearly shows that he was in the habit of issuing cheques without maintaining sufficient balance.

8. The alleged incident had taken place on 24th January, 1989, while so a show cause notice was issued on 12-10-1993 in bad faith so as to implicate the petitioner. The enquiry was conducted without observing the principles of natural justice. During the enquiry the presenting officer did not produce any complaint given by the senders muchless any instructions were issued by the General Manager. A copy of the report submitted by the investigation official was not given. No opportunity was given to cross-examine the examiner of the questioned documents. There are no signatures on the back of the withdrawal slip and the person who signed on the reverse of the withdrawal slip be held responsible for the amounts. The alleged forged signature of the account holder D.N. Swamidoss, who is no other than the Petitioner's father. The expert gave opinion that the disputed signature was not a forged one. The account holder was also not examined during the enquiry.

9. It was also alleged that the workman had received Rs. 1000 on 13-3-1994 from Sri P. Yanadaiah who is a customer having Savings Bank Account Number 19/1663 and he did not account for the amount in the branch books. Further he made a credit entry for the amount in the pass book of the customer with fictitious entry for the amount in the pass book which came to light on 13-5-94 for which the workman had prepared a voucher and remitted the amount to the customers account.

10. Further alleged that he received Rs. 200 on 21st March, 1994 from Smt. Ramanamma Account No. ATC. 6/947 and did not enter it in the books of account. But he made an entry for Rs. 200 in the pass book. The said fictitious entry came to light on

17-6-1994, for which he prepared a voucher remitting the amount in the customers account. Further he had received Rs. 1000 on 10-4-1994 from Sri N. Subbaiah a customer maintaining S.B. Account No. 12/2313 and did not account for the amount in the branch books. However an entry for the amount was made in the pass books. The said fictitious entry came to light on 17-6-94, for which he prepared credit voucher. Further alleged that he received Rs. 1850 on 9-5-1984 from S.B. A/c. 2/233 and did not account for the amount in the books of accounts, however made an entry for the said amount in the pass book. About the said fictitious entry in the pass book, it came to light on 11-5-94 for which he prepared credit voucher. Further he issued the D.D. Purchase facility by negotiating savings bank withdrawals without keeping sufficient balance in the S.B. Account. During the enquiry the account holder was not examined, muchless the expert who gave the opinion was called for to cross examine him. In respect of the second allegation the witnesses PW2 Smt. Ramanamma could not confirm the date of remittance of the amount and also identify the person who had received the amount. In respect of the third allegation Sri N. Subbaiah could not identify his own thumb impression and recollect the dates. So also the witness, PW3 Sri Anjaiah could not identify the hand writing on Ex. No. 7 except stated the facts on account of tutoring given to him. The wife of B. Narsiah (Joint Account Holder) could not tell the dates on which she remitted the amounts in the bank. The prosecution failed to produce the scroll and relevant registers for the period. The petitioner workman had remitted the amount under protest. The enquiry officer assumed the role of prosecution. The workman had submitted the xerox copies of the letter of Sri N. Subbaiah, Smt. Bhagyamma and Kum. Shoba Rani addressed to the A.G.M.R.-II Thirupathi in which they mentioned that they never gave a complaint against the workman but the same were suppressed from production. The petitioner workman had put in 19 years of service without any remarks and his services were appreciated by the officials. On account of the punishment, petitioner cannot get any subsequent service either in public or private sectors. Hence prayed to set aside the impugned order of discharge dated 2-9-86 passed by the disciplinary authority, as confirmed by the appellate authority.

11. The respondent management filed counter and in brief the averments are as under :—

The petitioner did not submit any reply to the Charge-sheet, so an enquiry officer was appointed to prove the charges levelled against him. The enquiry officer had observed the principles of natural justice and following the rules and regulations of the service had conducted the enquiry and submitted his report. On the basis of the enquiry report and appreciation of the same a Show Cause Notice was issued calling for the explanation from the workman as to why he should not be inflicted with proposed punishment of dismissal from the bank services. After considering the representation submitted, a personal hearing was also given and thus a discharge order dated 2-9-96 was passed against the workman discharging him from service. The workman preferred an appeal which was re-examined by the appellate authority and it was confirmed

on merits. As per the provisions under para 521(10)(c) of the Sasry Award read with para 18.20, while awarded punishment by the way of disciplinary action, the authority concerned shall take into account, the gravity of the misconduct, the previous record if any of the employee and any other extenuating circumstances that may exist. The past record was verified by the disciplinary authority which was not clean and there were no extenuating circumstances warranting lesser punishment. The workman had cross examined the witnesses and availed the opportunity so he has no right to take up the issue now, more particularly when the workman's representative had not raised the issue. Strict rules of evidence need not be followed during domestic enquiry. At first the fraudulent act came to light in 1989, subsequently the investigation had revealed that fraudulent acts were committed. In the process of investigation considerable time was required to verify the records covering various periods so no mala fides to be imputed to the management. The banks goodwill and public trust is a paramount basis upon which bank is run up, the fraudulent acts of the workman as an employee has caused irreparable damage and harm to the reputation of the bank. Fraudulent acts cannot be condoned. Hence prayed to dismiss the claim.

12. The point for adjudication is (1) whether the evidence let in during the domestic enquiry establishes the charges of fraud and misappropriation of funds of customers kept in the Savings Bank Accounts?

(2) Whether the punishment of discharge of the workman from bank services is either proportionate or disproportionate to the charges levelled against him?

13. The petitioner workman had disputed the validity of the domestic enquiry. In a preliminary inquiry, an order dated 13-7-2001 was passed holding that the domestic enquiry was conducted fairly in compliance with the principles of natural justice and the merits of the case will be considered at the stage of the final arguments.

14. During the main arguments on the side of the management the documents Ex. M1 to M14 which is a record pertaining to the domestic enquiry were marked by consent and similarly Exs. W1 to W5 were marked on the side of the workman.

15. Point No. 1.—Ex. M1 dated 12-10-93 and M2 dated 3-8-94 are two separate charge sheets that were issued to the workman for the acts of omission and commission committed by him. While he has worked as a clerk-cum-Cashier at Neilore Branch and Malpaud Branch. In Ex. M1 seven charges of forgery and misappropriation of the savings bank accounts of the account holders of the three savings bank account holders and other cheque irregularities committed have been pointed out. Similarly Ex. M2 the acts of forgery, fraud and misappropriation savings bank account of four account holders and other cheque irregularities have been committed by the workman, while he worked thereat in those two branches of the bank. An explanation was called for which no explanation was submitted and therefore an enquiry was ordered appointing an enquiry officer.

cer. Ex. M4 and M7 are the domestic enquiry proceedings pertaining to the enquiry proceedings held against the workman. Ex. M5 and M6 are the objections submitted by the defence representative in respect of the prosecution witnesses, pointing out as to how evidence let in pertaining to charges is defective. Ex. M8 and M9 are the enquiry findings submitted by the enquiry officer to the disciplinary authority. Ex. M10 is the show cause notice calling for explanation from the workman to show cause as to why proposed punishment should not be imposed. Ex. M11 is the record pertaining to disciplinary proceedings. Ex. M12 are the minutes of the proceedings made in respect of giving personal hearings. Ex. M13 is the covering letter of the disciplinary forwarding appeal submitted by the workman to the appellate authority against the impugned order of discharge from service. Ex. M14 is the order passed by the appellate authority confirming the order of the disciplinary authority. The workman filed Ex. W1 to W5 which are the statements given by the account holders denying about the allegations made by them against the workman and also as to the fact that as per the entries of withdrawal they confirm that the amount were withdrawn and received by them.

16. The learned counsel for the petitioner workman has harped that the evidence let in during the domestic enquiry is nothing but concoction and there is no direct evidence to establish that the workman had either forged the signatures of the customers or misappropriated the deposits from the savings banks account as alleged against him. The experts opinion as to the identity of the signatures cannot be a basis to hold that the charges are proved, especially no opportunity was given to workman to cross examine the expert disproving the allegations. More so, when the material witnesses who are the account holders which had resulted in serious prejudice to the workman. So it is held that the evidence on record cannot be relied to hold him guilty of the charge of either forgery or misappropriation.

17. On the other hand it was argued for the management that strict rules of Evidence Act cannot be applied in domestic enquiry proceedings and that non-examination of the account holders as to giving of a complaint against the workman for his omissions and commissions cannot have any adverse affect, especially when the concerned managers who are acquainted with the hand writing and initials of the workman as clerk in discharge of his duties in day to day transactions have spoken the details of the fraudulent acts committed by him.

18. In order to appreciate the rival contentions, it is worth while to set the record straight, so as to have a clear idea of the complicity of the workman and the evidence available on record in proof of the charges of misconduct. Under Ex. M1 and M2 two separate charge sheets dated 12-10-93 and 3-8-94 respectively the workman was charged alleging that while discharging duty as a clerk-cum-Cashier at Nellore and Marpadi branches of the respondent bank he dealt with the savings bank accounts of the customers in which he made fictitious entries after receiving payments from them without remitting the

amounts in the ledgers. The workman did not submit reply to the charge sheets. However the workman was defended in the domestic inquiry through the Union Secretary who is a staff member of the bank.

19. Ex. M7 is a record relating to enquiry proceedings, which contains the list of documents, relied and the number of witnesses examined during the enquiry.

20. At first the Presenting Officer's statement was recorded with reference to the material on record pertaining to the savings bank withdrawals of the account holders, the vouchers and the scrolls endorsed by the workman on the respective dates. In respect of charges I, II, and III the presenting officer has relied on L. No. BH/27/89D/16-1089 of G.EOD Hyderabad which is an opinion given by the expert. The defence representative stated that he has no objection to mark this as exhibit, subject to its confirmation by the expert through his evidence. The E.O. gave a finding that expert need not be examined in domestic inquiry. On this aspect the law is settled that strict rules of Evidence Act need not be followed in domestic inquiries. Non examination of expert is in no way pre-judicial to the delinquent vide K. Venka'swarlu V. Nagarjuna Gramena Bank 1995(1)A.L.D. Page 500.

An objection was raised that when the opinion was received by the regional manager, he did not put his initial. So a doubt was expressed that it was not received by the Regional Manager. The official acts are to be presumed, so the objection is not tenable.

21. As regards charge No. II, the statement is that on 20-6-90 the workman was working as receipts-cashier at Nellore branch and he received Rs. 1000 remitted by G. Kameswara Rao in the Account of Mrs. A. Parvati and he issued Counter foil to it. But the said amount was not accounted for day's scroll, muchless in the Savings Bank Account. However, when the depositor complained he remitted Rs. 1000 on 28-8-92 with accrued interest of Rs. 280 in the sundry deposits account. Ex. No. 5, 6, 7, 8, 9 are filed to prove misappropriation by the workman. The complaint dated 10-8-92, the depositor was marked as Ex. No. 28. So also another deposit amount of the same depositor for Rs. 1000 though was received but not accounted for which is Ex. No. 29.

22. It is stated that the workman had remitted Rs. 1285 on 28-9-1992 after calling for explanation which is Ex. No.9. It is relied to prove that this amount was misappropriated.

23. The defence representative had asked for producing the investigating officers report. The request was rejected as privileged documents need not be produced. The ruling is not unreasonable.

24. A letter addressed by the workman to Branch Manager Nellore Branch was relied and marked as Ex. 29. In respect of the hand writings of the workman, experts opinion Ex. P3 was relied.

25. Further stated that on 24-1-89, the workman had encashed saving bank withdrawal at Nellore

Branch for Rs. 10,000 of savings bank A/c No. 19/4082 (S. N. Swamidoss) covered by Ex. P1 in which the signature of the depositor was forged. The expert gave his opinion.

26. Similarly as on 21-11-88, the workman had encashed Rs. 200 from the saving bank A/c 26/20007 of Sobha Rani. Expert's opinion was relied. Sobha Rani gave a complaint. Her report was asked to be produced by at the time of inquiry, but it could not be produced. It was alleged that workman was in the habit of withdrawing saving bank withdrawals without sufficient balance, while he worked at Mypadu and Nellore Branches. So also issued cheques to financial corporation without there being balance in his saving bank Account No. 2/24. In proof of it Ex. P15, 17, 18, 16 were relied.

It was confirmed that Ex. P15, P17, 8 to 16 relates to charge No. IV. Ex. P17 to 20 relating to charge No. V. Ex. P21, P27 and 17 relating to charge No. VI. Ex. P24, P25, 26 and 27 relating to charge No. VII.

27. Charge No. 4

It is confirmed that the workman had sufficient balance on the date of purchasing withdrawal from Nellore Branch (i.e. on 30-7-93) but he did not maintain the balance till he received the instrument at Mypadu Branch (i.e. on 7-8-93), as a result of which the instrument was repurchased at Nellore Branch where it was disposed off, by recovering the amount for him.

28. Charge No. 5 :

With reference to Ex. P17, 19 & 20, it was confirmed that the workman had sufficient balance on the date of issue of withdrawal i.e., 4-8-93, so also on the date of receipt of instrument at Mypadu branch on 26-8-93 but he did not maintain the same balance continuing it in between 5-8-93 to 20-8-93.

29. Charge No. 6 :

With reference to Ex. P17, P21, P22 it was spoken that he had sufficient balance on the date of receipt of instrument at Mypadu branch i.e. on 26-8-93, but he did not maintain sufficient balance in his saving bank Account at Mypadu Branch on the date of repurchase of the instrument on 6-8-93 at Nellore branch. There was no sufficient funds in his saving bank account of Mypadu branch till 20-8-93.

30 Charge No. 7 :

Relied on Ex. P24, P25, P26 and P27 to prove that he did not maintain sufficient balance as on 29-9-93 and 1-10-93, so the cheques of Bank of Baroda, Nellore were returned with remarks of insufficient funds.

31. The workman's statement was also recorded by the Enquiry Officer (Vide pages 18, 19 and 20) of Ex. M7. The workman had denied the signatures in Ex. No. 5 but he admitted his signature in Ex. No. 9. According to him he was threatened with dire consequences so he remitted the amount covered by Ex. No. 9 and signed it.

32. Besides the above seven charges, the workman was issued with Ex. M2 charge sheet in which the charges are :—

- (a) It is alleged that the charged employee had received an amount of Rs. 1000/- on 13-3-94 from Shri P. Yanadaiah, a customer maintaining savings bank Account No. 9/1663 and did not account for the amount in the Branch Books. However you made a credit entry for Rs. 1000/- in the pass book of the customer. When the above fictitious entry in the customer's pass book has come to light on 13-5-94, you prepared a voucher, and remitted the amount to the said customer's account.
- (b) It is alleged that the charged employee had received an amount of Rs. 200/- on 21-3-94, from Smt. S. Ramanamma a borrower having account No. ATL 6/G 43, and did not account for the amount in the Branch books. However you made a credit entry for Rs. 200/- in the pass book of the customer. When the above fictitious entry in the customer's pass book has come to light on 17-6-94. You prepared a credit voucher and remitted the amount to the said customer's account.
- (c) It is alleged that the charged employee had received an amount of Rs. 1000/- on 10-4-94, from Shri N. Subbaiah, a customer maintaining Savings Bank Account No. 12/2313, and did not account for the amount in the Branch books. However you made a credit entry for Rs. 1000/- in the pass book of the customer. When the above fictitious entry in the customer's pass book has come to light on 17-6-94, you prepared a credit voucher and remitted the amount to the said customer's account.
- (d) It is alleged that the charged employee had received an amount of Rs. 1850/- on 9-5-1994 from Shri B. Narasaiah, a customer maintaining Savings Bank Account No. 2/233 and did not account for the amount in the branch books. However you made a credit entry for Rs. 1850/- in the pass book of the customer. When the fictitious entry in the customer's pass book has come to light on 11-5-94, you prepared a credit voucher, and remitted the amount to the said customer's account.
- (e) It is further reported that the charged employee had misused the D. D. Purchase facility by negotiating savings bank withdrawals without maintaining sufficient balance in your Savings Bank Account maintained at Mypadu Branch. Particulars in respect of two such instances are furnished below : It is thus alleged that you have negotiated the withdrawals without keeping adequate funds in your account with a deliberate intention of gaining temporary use of Bank's funds for your personal benefit.

33. Under the law, a person who sets up the plea of undue influence, threat and coercion is required to prove it for the first time the workman came forward with his version that he was threatened with consequences, so he accepted and remitted the amount, which is not at all acceptable especially when it is in writing. The workman is neither a guillible person nor an illiterate to keep quiet all the while from the alleged date of threat till he gave statement before the enquiry officer without relying it. On the date of enquiry i.e. 27-3-95, some more documents were marked and covered by the second part of Ex. M7 through the presenting officer. On 27-3-95 the account holder P. Yanadayya was examined and he was confronted with the thumb mark covered by Ex. 22 which he admitted as that of him, so also Ex. 1, the pass book belonging to him. When the second account holder was questioned as to whether he went to the bank on 26-3-94 to remit any amount, he admitted that he remitted Rs. 1000/- and paid it to the workman herein. He denied remittance of the amount on 13-5-94. He further confirmed that the workman had made entries in his pass book. In the cross examination he was suggested that there is no entry in the pass book of the transaction on 26-3-94. Another witnesses N. Subbaiah was examined who also admitted his thumb mark contained on Ex. 20 admitting that on 10-4-94, he went to the Bank to remit Rs. 1000/-. He further stated during his visits to the bank he used to pay the amounts to the workman herein. He further clarified that no receipts used to be passed for the amounts remitted but entries used to be made by the workman. In cross examination the witness was asked as to when he put his thumb marks on Ex. 8 and 20 for which his answer is that he put the thumb mark on the date of giving statement and about the other he do not remember the date. He was also asked to identify thumb marks shown on Ex. 8, 20, 23 but he expressed that he cannot identify. Being an illiterate, and a marks man, it is highly difficult for such a person to identify his own thumb marks. The points elicited in his cross examination are of no help at all. The next witness Smt. B. Ramanamma has stated that she remitted an amount of Rs. 200/- on 21-3-94. The witnesses stated that she gave the amount for remittance in the bank. She stated that inside the hall of the bank she remitted the amount, and she cannot identify the person to whom she paid. Unless an account holder frequently visits and has sufficient acquaintance with the banking transaction and the persons it is difficult for the illiterate woman to identify person to whom the amounts were paid and transaction at the counter of the banks on 16-9-95.

34. The presenting officer was examined to prove the transactions of the account holder Smt. B. Dhanamma and through his evidence the complaint given by Dhanamma, dated 9-5-94, the cash receipts, scrolls dt. 2-5-94, 11-5-94 were got marked which are Ex. 22 to 26. The other account holder examined Smt. B. Dhanamma also gave her statement. The workman witness had expressed her doubt of remittance of the amounts but not able to identify the person to whom the payments were made. However it is a fact that remittance was made and the entries

were written on the scrolls and in the cash pass books by the workman which he neither disputed nor denied. In fact the same were handled by the workman in the transactions. One of the Branch Manager G. Ramakrishna also gave evidence and confirmed that Ex. 1, 4, 7 and 10 are in the hand writing of the workman herein, which were entered on 2-5-94, 26-3-94, 10-4-97, 23-3-94 respectively. He also confirmed that the deposit vouchers of Ex. 2, 5, 8, were prepared by the Head Clerk by name Murali Mohan Rao and the credit voucher Ex. M11 dated 11-5-94 bears the signature of the workman. In the cross examination he was asked to confirm the hand writing of Ex. 7 and Ex. 1 and 7 relating to the entries and he said it cannot do so.

35. Murali Mohan Rao was examined as witness and he was asked to confirm about the four vouchers Ex. 2, 5, 8 and 11 for which his answer is that he do not remember it and identify the signatures. His version is that the same seems to be that of the workman herein. No cross examination was done to this witness. Another witness M. Sultan, Clerk-cum-Cashier was also examined who confirmed about the remittance of the amount covered by Ex. 2, 5, 8 and 11 but he said he cannot recollect. Who gave it to him.

36. On the basis of the oral and documentary evidence, the enquiry officer submitted his reports M8 and M9 relating to the charge sheets. He held that the charges were proved. Basing on the enquiry report the disciplinary authority issued Ex. M10 notice fixing personal hearing and called for objections of the workman. After giving personal hearing, a final order was passed discharging workman from service. Ex. M13 is the appeal which was forwarded through a covering letter to the appellate authority. Ex. M14 is the order passed by the appellate authority confirming the final order passed by the disciplinary authority.

37. The strong hold contention of the workman is that none of the account holders have spoken against him about payment of amounts directly to him, so also there is no clinching evidence to show the entries in the pass book were made by him so as to attribute that he made fictitious entries in the pass books and non-remittance of the amounts as alleged. It is also pointed out that the expert who gave opinion about the signatures on the documents was not produced for cross examination so his opinion cannot be given any importance.

38. On the other hand the learned counsel for the respondent bank by placing reliance upon the decisions noted hereunder :—

1. J. D. JAIN vs. THE MANAGEMENT OF S. B. INDIA & OTHER AIR 1982 S.C. PAGE 673.
2. STATE OF HARYANA vs. RATAN SINGH A.I.R. 1977 S.C. PAGE 1512.
("In a domestic inquiry the Strict Rules of Evidence Act may not apply".)
3. JANATA BAZAR CO-OPERATIVE WHOLE SALE STORES LIMITED Vs. SECRETARY 2000 L.L.R. (S.C.) PAGE 1271.

4. S.B.I. Vs. TARUNKUMAR BANERJEE
2000 L.L.R. PAGE 1274.

"Once act of misappropriation is proved there is no question of imposing lesser punishment".

has urged that oral evidence is of no significance when there is a documentary evidence, more particularly when the documentary evidence establish that the workman is the author of it, which he could not deny it. The entries were made in the vouchers, the pass books and the scrolls by the workman in his own hand writing. It is neither disputed nor denied that the same were not handled by him on the relevant dates dealing with The Savings Bank Transactions of the Account holders. When the Bank officials who have no grouse against the workman who have identified the signatures, and initials of the workman in the relevant documents, such evidence assumes importance. It is pointed out that strict rules of Evidence Act need not be followed by the Enquiry Officer and the Labour Court/Tribunals had to reappraise the evidence on record to see whether the evidence committed or not. Speaks of that whether omissions or commissions were committed or not. The admission made by the workman about the remittance of the amounts would support the case of the charges alleged against him. Having remitted the misappropriated amounts to get over from penalty, he cannot set up defence that he remitted it under threat and coercion.

39. The domestic inquiry proceedings are not criminal proceedings, where the entire burden to be on the prosecution to prove case beyond reasonable doubt. Every time and in all cases it is not compulsory that the complaint is to be invariably examined as a witness to prove the facts of a report. Basing on the report of the account holder the Bank Officials would inquire into the matter with reference to the documents and after securing material evidence in support of the allegations a charge sheet will be framed. The admissions made by the erring employee before the Bank officials is admissible. A denial of the admission at a later stage is of no help except to say that it is a defence.

40. On a close scrutiny of the evidence on record it is abundantly clear that the workman as a clerk-cum-cashier dealt with the transactions and he made to the entries in the Saving Bank Books of the account holders without posting the amounts in the ledgers. It is pertinent to note that no motive is attributed to any of the Bank Officials who were examined as witnesses. Their evidence assumes importance and it is very clear that the payments were received by the workman while he transacted with the Account holders. Though he received payments but he failed to remit the amounts in the concerned ledgers. To satisfy the account holders he showed entries in the pass books. The bank to safeguard its reputation had reimbursed the amounts to the customers. It is natural that the customers when once receive payments they are least bothered as to the action and avoid involving with the person to expose the erring employee.

41. It has been held by the Hon'ble Apex Court in a decision reported in J.D. JAIN Vs. SBI AIR 1982 page 673 that there is no necessity to examine the complainant when there was an admission by the erring employee about the transactions and the bank staff have corroborated the facts. The documents Ex. W1 to W4 relied by the workman to show that account holders supported that they never gave amounts as alleged would speak of tampering of evidence and tutored to speak in his favour. Undoubtedly they were won over. It is an after thought to get over the situation and to wriggle out of the circumstances. In a decision reported in it was held that domestic enquiry proceedings are neither civil or proceedings in which strict principles of evidence need not be followed to call for expert tender him for cross examination by the delinquent.

42. As regards the quantum of punishment and the pleas to impose lesser punishment by means of Section 11(A) of the I.D. Act, which is to be effect that punishment cannot be disproportionate to the gravity of the charges. However, it is to be exercised judiciously by the Labour Court/Industrial Tribunals taking into consideration of the nature and gravity of the charges. The Rule does not say that the punishment of discharge or dismissal which was passed by the employer to be reduced with lenient punishment. In white-collared offences, it is necessary to observe how far the case deserves sympathy and whether the fraud was played intentionally or inadvertently. As seen the monetary transactions were dealt consciously so as to have wrongful gain and to cause wrongful loss to the Bank. In banking service if the employee fails to discharge duties there will be loss of confidence and honesty, it erodes, the reputation of the bank. The respondent's counsel has placed reliance on the decisions cited supra in which some guidelines are laid down by the Apex Court holding that where a misappropriation was committed by the employee it is unwarranted to show uncalled for sympathy and it is not justified to impose lesser punishment by the Tribunal/Labour Courts. The same principles holds good to the case on hand so it is not desirable to interfere with the punishment of discharge from service of the workman in view of the proved misconduct covered by separate charges covered by Ex. M1 & M2.

43. In the result an award is passed dismissing the claim by confirming the impugned order dated 10-2-97 discharging the workman from service holding it as legal and valid. In the circumstances there is no order as to costs.

Dictated to the Shorthand Writer, transcribed by him, corrected by me and the seal of this Tribunal on this the 17th day of October, 2001.

SYED ABDULLAH, Industrial Tribunal-I
Appendix of Evidence

No oral evidence for both the sides

Documents marked for the Petitioner (By consent)

Ex. W1—Letter given by Smt. Bagyamma.

Ex. W2—Letter given by Sri Nooti Subbaiah.

Ex. W3—Letter given by Smt. Sheeram Ramanamma.

Ex. W4—Letter given by Smt. M. Dhanamma.

Ex. W5—Letter given by Smt. R. Shobha Rani.

Documents marked for the Respondent :

Ex. M1 12-10-93—Show Cause notice issued to petitioner to initiate disciplinary action.

Ex. M2 3-8-94—Show Cause notice issued to petitioner to initiate disciplinary action.

Ex. M3 16-10-95—Presenting Officers written brief in the enquiry for the letter dated 12-10-93.

Ex. M4 16-10-95—Presenting Officer's written brief for the letter dated 3-8-94.

Ex. M5 18-12-95—Letter submitted by the Defence Counsel enclosing the defence brief to Ex. M1.

Ex. M6—Written brief submitted by the defence counsel for Ex. M2.

Ex. M7—Enquiry Proceedings (xerox copy).

Ex. M8 27-12-95—Findings of the enquiry officer on Ex. M1.

Ex. M9 27-12-95—Findings of the enquiry officer on Ex. M2.

Ex. M10 5-8-96—Notice of intimation of Personal hearing.

Ex. M11 5-8-96—Proceedings of the Disciplinary Authority.

Ex. M12 2-9-96—Memorandum issued to the workman enclosing the order of the Disciplinary Authority.

Ex. M13 20-12-96—Letter of the Branch Manager SBI, Myspadu forwarding the appeal grounds of the workman to the appellate authority.

Ex. M14 10-3-97—Letter of the Deputy General Manager enclosing the order of the Appellate Authority in the case of D. S. Ravi Raj, workman.

नई दिल्ली, 6 दिसम्बर, 2001

का.प्रा. 3527.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार फेडरल बैंक लिमिटेड के प्रबंधन के सम्बन्ध नियोजकों और उनके कर्मचारियों के बीच, अनुबंध में निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार श्रम न्यायालय एर्नाकुलम के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 5-12-2001 को प्राप्त हुआ था।

[सं. एल-12012/251/94-आई.आर. (बी-1)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 6th December, 2001

S.O. 3527.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Labour Court, Ernakulam as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Federal Bank, Limited and their workman, which was received by the Central Government on 5-12-2001.

[No. L-12012/251/94-IR(B-I)]

AJAY KUMAR, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT LABOUR COURT, ERNAKULAM

(In the Labour Court, Ernakulam)

(Tuesday, the 6th day of November, 2001)

PRESENT :

Smt. N. Thulasi Bai, B.A. LL.B., Presiding Officer, Industrial Dispute No. 6/1996 (Central)

BETWEEN

The Chairman, Federal Bank, Limited, Alwaye.

AND

The workman of the above concern represented by Sri. K. N. Levin Kumar, Pallathuparambu, Mulavukad, P.O. Poggikkara, Pin-682504.

REPRESENTATIONS :

Sri. B. S. Krishnana Associates, Advocates, Marriam Road, Ernakulam.

.. For Management.

Sri. C. Anil Kumar, Advocate, Ernakulam.

.. For Workman.

AWARD

This reference was made by the Central Government as per Order No. L-12012/251/94-IR (B-I) dated 26-3-1996. The dispute is between the Management of M/s. Federal Bank Limited and their workman Sri. K. N. Levin Kumar. The dispute referred is :—

"Whether the action of the management of M/s. Federal Bank Ltd., Alwaye in terminating the service of Sri K. N. Levin Kumar, Casual Labourer of their Ernakulam North Branch w.e.f. 23-1-1993 on completion of 85 days service is justified when the casual vacancy continues to be there? If not, to what relief the workman is entitled?"

2. On receipt of notices issued from this court both the management and workman appeared through their respective counsel. Workman filed a claim

statement raising his claims for which the management filed a written statement. No rejoinder was filed and the case was pending for adducing evidence by the workman. In spite of repeated chances the workman has not turned up to adduce evidence. His counsel submitted that he has no instructions from the workman. Under the above circumstances I am satisfied that the workman has no interest for prosecuting the reference thereby it can be found that there exists no pending dispute between the parties to the reference.

In the result, an award is passed finding that there exists no dispute between the parties at present to be resolved through court as per reference.

Enakulam,

Dated : 6-11-2001.

N. THULASI BAI, Presiding Officer

नई दिल्ली, 3 दिसम्बर, 2001

का.शा. 3528.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार रीजनल प्रोविडेंट फंड कमिशनर के प्रबंधन के संबंध में उनके कर्मचारियों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिनियम, 1947 के अनुच्छेद 2 के प्रावधानों को प्रकाशित करती है, जो केन्द्रीय सरकार को 3-12-2001 को प्राप्त हुआ था।

[सं. एल-42011/34/45—आई.आई. (डीयू)]

कुलदीप राय वर्मा, डेस्क अधिकारी

New Delhi, the 3rd December, 2001

S.O. 2528.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal-cum-Labour Court Mumbai, No. 2 as shown in the Annexure in the Industrial Dispute between the employees in relation to the management of Regional Provident Fund Commissioner and their workmen, which was received by the Central Government on 3-12-2001.

[No. L-42011/34/95-IR(DU)]

KULDIP RAI VERMA, Desk Officer
ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL NO. II, MUMBAI

PRESENT :

S. N. Saundankar, Presiding Officer.

REFERENCE NO. CGIT-2/33 of 1996

EMPLOYERS IN RELATION TO THE MANAGEMENT
OF REGIONAL PROVIDENT FUND COMMISSIONER

(D) MAHARASHTRA AND GOA REGION

- (1) The Regional Provident Fund Commissioner (D) Maharashtra and Goa. 341, Bhavishya Nidhi Bhavan, Bandra (East), Mumbai-400051
- (2) The Regional Provident Fund Commissioner Sub-Regional Office, 5th Floor, Junta House Annex, Panaji Goa-403001.

AND

Their Workmen

Shri G.S. Kubal,
The General Secretary,
Gomantak Mazdoor Sangh,

C/o Shri G.S. Kubal,
T-14, Vrindavan Chambers,
Patto, Panjim, Goa-403001.

APPEARANCES :

For the Employer : Shri R. K. Shetty, Advocate.

For the Workmen : In Person.

Mumbai, dated 5th October, 2001

AWARD-PART-I

The Government of India, Ministry of Labour, by its Order No. L-42011/34/95-IR(DU), dated 27-6-96, in exercise of the powers conferred by clause (d) of Sub-section (1) and Sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, have referred the following dispute to this Tribunal for adjudication.

"Whether the action of the Regional Provident Fund Commissioner (1) Maharashtra and Goa Region, Bombay and the Regional Provident Fund Commissioner, Sub-Divisional Office, Panjim, Goa in dismissing the services of Shri G.S. Kubal is legal and justified? If not, to what relief the workman is entitled to?"

2. Shri Ganesh S. Kubal vide his Statement of Claim (Exhibit-3) pleaded that he was working as Head Clerk/ Section supervisor, in the office of Regional Provident Fund Commissioner, Panjim, Goa. He was elected Secretary of the Employees Provident Fund Staff Union since 1984. It is contended that being the Secretary of the Union he had given list of problems of the employees dated 20-5-1993 to the Officer Incharge and that on 21-6-1993 decision of the General Body convened to decide the modes of agitation that may be followed on functioning of the Officer In Charge was taken. It is contended that on 29-6-93 he was suspended and chargesheet alleging that he alongwith his other employee colleagues, wrongfully confined Mr. P.M. Mathew, APFC and Officer In Charge, Sub Regional Office, Goa, in his Chamber in 22-6-93 between 3.00 P.M. and 6.00 P.M. and also threw files, paper weight and eggs on the said officer and threatened and abused him in vulgar language in order to procure the officer. In Charge to withdraw the Memo issued to him dated 21-6-1993, which charges he denied by reply dated 5-7-1993. However, the management held domestic inquiry on the charges and the inquiry officer by the report dated 7-1-1994, held him guilty for the charges proved, and that the disciplinary authority dismissed him by the order dated 30-3-1994 w.e.f. 4-4-1994. It is contended, workman preferred appeal on 19-5-1994, however the same was dismissed on 27-4-1998. It is his contention that inquiry was hurriedly completed by the inquiry officer, without giving him opportunity. He was not supplied with the copies of the documents, relied by the management. He was not given opportunity to produce defence witnesses by the defence assistance. It is contended that the management had reported the alleged incident dated 21/22-6-1993 police, however subsequently withdrawn the same unconditionally. It is contended that the workman being office bearer of union always fights for the cause of the employees, was not allowed to participate in the inquiry and that proceedings were conducted without his presence in hasty manner. He contended that the inquiry was held in violation of Section 33 of the Industrial Disputes Act and victimised him adopting Unfair Labour Practice, and that the punishment imposed on his dismissal was shockingly disproportionate. By way of amendment (Exhibit-24) to the Statement of Claim, the workman contended that, the inquiry was unfair and the findings recorded by the inquiry officer are bias and consequently he contended the inquiry was held against the Principles of Natural Justice and the findings are perverse.

3. The management resisted the claim of Kubal by filing their Written Statement (Exhibit-4 and 7). It is their contention that Mr. Kubal was section supervisor, since 19-11-91. He was supervising the work of clerks. He was recommending list of staff for sanction by the Higher authorities. He was writing confidential reports of the clerks working under him. As per the duties he was primarily responsible for the disposal of work in quick and efficient manner. His total pay was Rs. 3100 P.M. which is much more than the

at 1,600 P.M. which a workman covered under the Industrial Disputes Act, 1947 draws. It is contended that as Head Clerk was discharging supervisory and Managerial functions is not a 'workman' under section 2(s) of the Industrial Disputes Act, and therefore this Tribunal has no jurisdiction to try and decide the reference. By way of Additional Written Statement (Exhibit-7), it is contended by the management that Shri Kubal while working as section supervisor in the office of Sub Regional Provident Fund, Panjim, Goa, during 22-6-93 committed gross misconduct, i.e., he alongwith his staff wrongfully confined Shri Mathew, Officer In Charge, threw files, paper weights and eggs and threatened and abused him in vulgar language in order to pressurise him to withdraw the memo dated 21-6-1993 issued to him. He was found guilty in a manner unbecoming of an I. O. of the Central Fund Organisation, violating the Rules 1964 which are mutatis mutandis applicable to the Staff of Employees Provident Fund, and therefore memo was given to Kubal and other staff members and the complaint was registered with the police FIR No. 207/93 under sections 143, 149, 343 and 427 of Indian Penal Code, and he was consequently chargesheeted on 29-6-1993 of which reply he gave on 5-7-1993. It is contended that domestic inquiry was held against the workman and that inquiry officer on giving sufficient opportunity, held him guilty for the charges proved, by the report dated 7-1-94 and that Disciplinary authority by the order dated 30-3-1994 dismissed him w.e.f. 4-4-1994. It is contended inquiry was fixed on 21-7-1993 by the inquiry officer, however workman did not attend the inquiry and that he attended it on the adjourned date i.e. 22-7-1993 and received the copies. He cross-examined all the witnesses personally. He was well aware of the rules and regulations as he was working as section supervisor, by qualifying the departmental examination. In addition to that, he was holding the post of Union Secretary of the Region with the Sub-Divisional Office, Panjim, Goa and was well versed with the procedure. It is contended that Kubal tried to establish its militancy by using abusive language. He tried to instigate other fellow employees and encouraged them to indulge in violent action. Due to aggressive and violent behaviour he never thought of welfare of fellow men, he tried to establish his self styled leadership, which was totally unbecoming. It is contended that inquiry officer gave full opportunity and concluded the inquiry with good reasons and the inquiry being fair and finding being impartial the disciplinary authority accepted the report and that Appellate Authority confirmed the same. It is contended, Mr. Kubal while section supervisor performing Administrative/Managerial and supervisory functions is not a 'workman' under the Act and therefore the reference is not maintainable. By Rejoinder (Exhibit-9) Kubal reiterated the contentions in his Statement of Claim, denying the recitals in Written Statement.

4. On perusal of the rival pleadings of the parties my Learned Predecessor framed preliminary issues at Exhibit-8. On behalf of the management Mr. Edwin F. J. Noronha, Regional Provident Fund Commissioner filed affidavit by way of Examination-in-Chief (Exhibit-14) and the rebuttal workman filed affidavit by way of Examination-in-Chief (Exhibit-21). I have gone through the rival contentions of Kubal (Exhibit-39). On perusal of the record as a whole, and going through the rival contentions, I record my findings on the preliminary issues as under:

Issues

Findings

1. Whether the Tribunal has jurisdiction to decide the reference? Yes.
2. Whether the domestic inquiry which was held against the worker was against the Principles of Natural Justice? Yes.
3. Whether the findings of the inquiry officer are perverse and not based on evidence? Does not survive.

REASONS

5. At the threshold, the contention of the management is that Shri Kubal at the time of the dismissal was working as Head Clerk, discharging administrative, supervisory, discharging supervisory and managerial functions. He was

holding the supervisory post and was drawing pay of Rs. 3,100 per month, which is much more than the salary/wages Rs. 1,600 per month which the workman draws, covered under the Industrial Disputes Act, 1947. Mr. Noronha, Regional Provident Fund Commissioner vide his affidavit by way of Examination-in-Chief (Exhibit-16) pointed out that, duties and responsibilities of Shri Kubal as stated in para. 53 of Chapter-III of the Employees Provident Fund Manual of Accounting Procedure (Vol. I) and that on perusal of the same duties, it is crystal clear that those are predominantly supervisory and therefore he is not a 'workman' under the provisions of Section 2(s) of the Industrial Disputes Act, consequently this tribunal has no jurisdiction to entertain and decide the instant reference. As against this, Shri Kubal contended that, section supervisor does the same work that of head clerk, and that only name is changed without any benefit or powers. He submits that though the manual shows the head clerk as doing the distribution of work in reality, the same work is being done by the Commissioner by issuance of periodical office orders. He does not have powers to issue memo and/or to call for my explanation from any staff, nor is entrusted with the powers to withdraw any material/stationery under his signatures. He submits that his performance was controlled and subject to review by the Commissioner directly and therefore he is not an administrator/supervisor or manager and therefore he falls in the category of 'workman' under the Act.

6. Kubal admits in his cross-examination para 30, that his total salary at the time of his dismissal was Rs. 3,246 vide (Exhibit-16/4) and further agrees the duties performed by him vide (Exhibit-16/pg. 8). At the same time, Mr. Noronha, Regional Provident Fund Commissioner vide his cross-examination para 25 admits that the person appointed, in the capacity of head clerk/section supervisor, has to perform all duties as U.D.C. and that U.D.C's, U.D.C's and non-functional head clerks do identical jobs when he is posted as a Head Clerk. He further admits that, section supervisor is nothing but a Head Clerk and that Head Clerk cannot sanction any money or withdraw the money. In Para 27 he admits, Head Clerk is not sanctioning authority of the leave of junior clerks, but, he recommends the same, and that officer incharge make posting of clerks including Head Clerks.

7. In so far as definition of workman under the Act. Their Lordship of Supreme Court in S.K. Verma Vs. Mahesh Chandra and Anr. 1983 LAB IC 1483 enlightened as under:

"There appear to be two main objections which have become common to be raised by all employers, public sector corporations, whenever an industrial dispute is referred to a tribunal for adjudication. One objection is that there is no industry, a second that there is no industrial dispute and the third, that the workman is no workman. It is a pity that when the Central Government, in all solemnity, refers an industrial dispute for adjudication, a public sector corporation which is an instrumentality of the State instead of welcoming a decision by the Tribunal on merits so as to absolve itself of any charge of being a bad employer or of victimisation etc. should attempt to evade decision on merits by raising objections. I have never thereby satisfied, carry the matter to the High Court and to the Supreme Court, wasting public time and money. We expect public sector corporations to be model employers and model litigants. We do not expect them to avoid adjudication or to indulge in luxurious litigation and drag workmen from court to court merely to vindicate, not justice, but some rigid technical stand taken up by them. We hope that public sector corporations will henceforth refrain from raising objections to litigation needless litigations are not justifiable.

It is tried to say that Industrial Disputes Act is a legislation intended to bring about peace and harmony between labour and management in an industry and for that purpose, it is intended to be a law of investigation and settlement of industrial disputes. It is, therefore, intended to be a law of investigation of industry, not a law of settlement of industrial disputes etc. so as not to whittle down, but to advance the object of the Act. Disputes between the forces of labour and

management are not be excluded from the operation of the Act by giving narrow and restricted meanings to expressions in the Act. The Parliament could never be credited with the intention of keeping out of the purview of the legislation small bands of employees who though not on the managerial side of the establishment, are yet to be denied the ordinary rights of the forces of labour for no apparent reason at all. In workmen of Indian Standards Institution AIR 1976 SC 145; 1876 2 SCR 138; (1976 LAB IC 137) this court has occasion to point out :

... It is necessary to remember that the Industrial Disputes Act, 1947 is a legislation intended to bring about peace and harmony between management and labour in an 'industry' so that production does not suffer and at the same time, labour is not exploited and discontented and therefore, the tests must be so applied as to give the widest possible connotation to the term 'industry'. Whenever a question arises whether a particular concern is an 'industry', the approach must be broad and liberal and not rigid or doctrinaire. We cannot forget that it is a special welfare legislation we are interpreting and we must place such an interpretation as would advance the object and purpose of the legislation and give full meaning and effect to it in the achievement of its avowed social objective."

So we adopt a pragmatic and not a pedantic approach and we proceed, in considering the question whether development officers in the Life Insurance Corporation are workmen, to first consider the broad question on which side of the line they fall, labour or management, and then to consider whether there are any good reasons for moving them over from one side to other."

8. In the said ruling Their Lordships observed in para 6 "One does not have to be carried away by the appellation 'development officer' as the Industrial Tribunal appears to have been. After all, what is in a name? Notwithstanding the glorified designation, we must look to the nature of his duties to discover what precisely a development officer is?"

and thereafter Their Lordships in para 9 observed :

"the Development Officer in the Life Insurance Corporation even is a workman".

9. While discussing the definition of 'workman' Their Lordships in South Indian Bank Ltd. Vs. A.R. Chacko AIR 1964 SC 1522 in para 9 observed that :

"Head Clerks, Accountants, Head Cashiers should prima facie be taken in the category of workman".

10. Their Lordships of Bombay High Court in Union Carbide (India) Ltd. Vs. D. Samuel and Ors. 1999 LLR 21 while discussing Supervisor and Workman laid down some tests :

- (1) Designation is not material but what is important is the nature of work.
- (2) Find out the dominant purpose of employment and not any additional duties, the employee may be performing.
- (3) Can he bind the company/employer to some kind of decisions on behalf of the Company/employer.
- (4) Has the employer power to direct or oversee the work of his subordinates.
- (5) Has he power to a sanction leave or recommend it; and
- (6) Has he has the power to appoint, terminate or take disciplinary action against workmen.

Employer therein was held as not workman inasmuch as he was performing managerial/supervisory/administrative duties.

11. In the case on hand, if we go through the functions/duties performed by Kubal in the light of the admissions referred to above in para 6 of judgement, giving anxious thought to the observations made by their Lordships in case, S.K. Verma referred to above, and the observations made by Their Lordships of Supreme Court in S.K. Maini Vs. M/s. Carona Sahu Co. Ltd. and Ors. 1994 II LLJ pg. 1153, wherein it is pointed out, that designation of the employee is not of much importance. What is important is the nature of duties, the determinative factor is the predominant duties/main duties and not some work as incidentally done, and in that light, question is required to be determined with reference to the facts and circumstances of the case material on record; On going through the circumstances on record and the decisions, I am of the opinion that Shri Kubal Head Clerk redesignated as section supervisor falls within the definition of 'workman' under Section 2(s) of the Industrial Disputes Act and therefore this Tribunal has jurisdiction to decide the reference. Issues No. 1 is answered accordingly.

12. Once it is clear that Kubal is a workman, next point crop on "Whether the domestic inquiry held against him was fair and proper?". According to workman, Shri Kubal since 1984 he was elected Secretary of the Goa Union of the Employees Provident Fund Staff Union, till his termination. His service record was clean and therefore promoted to UDC and thereafter to Head Clerk through examination. Vide his affidavit (Exhibit-21) he stated that till 18-6-1993 there were no problems of employees with the management. He disclosed that, he was falsely chargesheeted being a union leader on 29-6-93, for the alleged incident of 22-6-93. These charges pertain to misconduct of riotious, disorderly and violent behaviour against Shri P.M. Mathew, A.P.F.C., as mentioned in Annexure-I, inquiry proceedings pg. 14 (Ex-16), summarily depicted in Judgement para-2, above. He stated that inquiry is not fair as he was not given copy of the service rules and regulations to enable to file the written brief, and that was given only on 20-10-1993. He was not given opportunity to produce defence witnesses. He was not allowed to participate in the inquiry proceedings. According to him, inquiry was concluded hurriedly. It is his contention that behind his back, evidence of some of the witnesses was recorded and therefore findings are perverse and that inquiry officer was biased. On perusal of the record, it is seen the management vide application (Exhibit-20) had requested my Learned Predecessor to allow them to ask some questions to their Witness Mr. Noronha by way of Examination-in-Chief, however, that request was rejected on 13-2-98. Managements counsel Shri Shetty cross-examined the workman on 1-11-99. Workman Shri Kubal at this juncture submits that, his evidence in so far as the inquiry vitiates and findings biased have not been challenged. As per issue burden is on the workman to prove as to how the inquiry is against the Principles of Natural Justice and fair play and findings are biased. Workman, Kubal for the reasons given above, pointed out that the inquiry is not fair. Therefore it is necessary to scrutinise the evidence as to whether for the reasons given by workman, inquiry vitiates.

13. The main contention of workman is that he was not allowed to depose in respect of the charges regarding his case. He had taken that point in his written statement, filed before the inquiry officer dated 22-11-1993, Exhibit-16, i.e. prior to the report of the inquiry officer dated 7-1-1994. On perusal of the inquiry proceedings, filed by the management (Ex-16) nowhere finds the evidence of the delinquent workman was recorded by the inquiry officer. Normally after recording the evidence of the management witnesses, the inquiry officer should have given opportunity to workman to lead his evidence and, his witness for fair trial. However, according to workman, he was not given opportunity. True it is, in a domestic inquiry a detailed procedure of recording evidence as followed in courts need not be strictly adhered to for which reliance can be place on Sukhdeo Vishwanath Garage Vs. M/s. Food Corporation of India and Ors. 1998 I LLJ pg. 277. Rules of evidence Act do not apply to the departmental inquiries and that it is the duty of the inquiry officer to elicit truth from witnesses and for this, he is entitled to cross examine the witnesses for the same and this will not bring any bias. At the same time it cannot be

forgetting that in a large majority of cases employees are likely to be ignored and so it is necessary to expose them to the risk of cross-examination. It is not that workman did not complain to this effect. It is to be noted that workman as stated above is the elected General Secretary of the union since 1984. Had he not objected vide his written submission referred to above dated 22-11-1993 (Ex-16/7), matter would have been different. As seen from the contention of workman that he was not given opportunity to examine himself, can certainly said that Principles of Natural Justice were not followed.

14. Further on perusal of the entire inquiry proceedings it is seen, on suspending the workman and others on 29-6-93 chargesheet was given, which was replied by him on 5-7-93 and that inquiry was initially fixed on 21-7-93 and thereafter telegraphically he was apprised to attend the inquiry on the next date i.e. on 22-7-93 in the office at Head Quarter, Goa and on the next date i.e. 23-7-93 it was concluded. However, it is surprising to note that, the Presenting Officer submitted his summation on 20-9-93 and the workman on 22-11-93 and that inquiry report was completed on 7-1-94. At this juncture, the submission of workman that inquiry was hurriedly done finds substance. When summation was allowed to be filed on 20-9-93 and 22-11-93, the inquiry officer could have given chance to enable the workman to lead his evidence and thereafter to cross-examine, for a fair trial, however, that is wanting and this, to my view, occasions prejudice to workman.

15. It is to be noted that the workman had assailed the order of dismissal by Appeal dated 19-5-97 and the appeal was decided against him on 27-4-98, i.e. during the pendency of this reference. The delay in deciding the appeal as above and the discussion supra, it is apparent that Principles of Natural Justice were not followed and therefore, the inquiry vitiates. Since the inquiry was not properly held and consequently vitiates there is no need to consider the point of perversity of findings as held by His Lordship of Bombay High Court in CST, Mumbai Vs. Ranjan Kumar Mohalik reported in 2000 II CLR 117. Consequently Issue No. 2 is answered in the affirmative and issue No. 3 does not survive, therefore the following order is passed:

ORDER

The Tribunal has jurisdiction to decide the reference. The domestic inquiry conducted against the workman was not as per the Principles of Natural Justice. Management to lead evidence to justify its action.

S. N. SAUNDANKAR, Presiding Officer

नई दिल्ली, 3 दिसम्बर, 2001

का.प्र. 3529:—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पेटेंट टीचर्स एसोसिएशन, केन्द्रीय विद्यालय, के प्रबंधन के संबंध में निरीक्षणों और उनके कर्मचारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण एर्नाकुलम के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 3-12-2001 को प्राप्त हुआ था।

[सं. एल-42012/193/99—ग्राह्यार (डीयू)]

कुलदीप राय वर्मा, डेस्क अधिकारी

New Delhi, the 3rd December, 2001

S.O. 3529.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal-cum-Labour Court, Ernakulam as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of

Parent Teacher's Association, Kendriya Vidyalaya and their workman, which was received by the Central Government on 3-12-2001.

[No. L-42012/193/99-IR (DU)]

KULDIP RAI VERMA, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT LABOUR COURT, ERNAKULAM

(IN THE LABOUR COURT, ERNAKULAM)

(Wednesday, the 26th day of September, 2001)

PRESENT:

Smt. N. Thulasi Bai, B.A. LL.B., Presiding Officer.

Industrial Dispute No. 3/2000 (Central)

BETWEEN

The Secretary, Parent Teacher's Association, Kendriya Vidyalaya, Kadavanthara, Ernakulam.

AND

The workman of the above concern represented by the General Secretary Private Motor Thozhilali Union, T. U. House, C.S. Road, Cochin-682011.

AWARD

This reference was made by the Central Government as per Order No. L-42012/193/99/IR (DU) dated 27-1-2000. The dispute is between the Secretary, Parent Teacher's Association of Kendriya Vidyalaya, Kadavanthara, Ernakulam and its workman Sri Ravi. F. V., Driver. The dispute referred is "Whether the action of the management of FTA of Kendriya Vidyalaya, Kadavanthara/Ernakulam in terminating the service of Sri. Ravi. P. V. Driver w.e.f. 21-2-99 is legal and justified? If not, to what relief the workman is entitled?"

2. In the reference, the workman is represented by the General Secretary, Private Motor Thozhilali Union (AITUC), T.U. House, C.S. Road, Cochin.

3. On receipt of notice issued from this court the management appeared. In spite of repeated notices the union did not appear. The notices issued were returned unserved. So notice was ordered through Central Labour Commissioner, Ernakulam. Accordingly the Central Regional Labour Commissioner, Ernakulam served the summons on the union. In spite of that the union did not appear. Hence I am satisfied that there is no pending industrial dispute between the parties to be adjudicated by this court.

In the result, an award is passed finding that there is no pending industrial dispute between the Secretary, Parent Teacher's Association, Kendriya Vidyalaya, Kadavanthara, Ernakulam and its workman Sri. Ravi represented by the General Secretary, Private Motor Thozhilali Union (AITUC), T. U.

House, C.S. Road, Cochin to be adjudicated by this court.

Ernakulam,

26-9-2001.

N. THULASI BAI, Presiding Officer.

नई दिल्ली, 7 नवम्बर, 2001

का.आ. 3530.—उत्प्रवास अधिनियम, 1983 (1983 का 31) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुये केन्द्रीय सरकार श्री आर. जी. साहू अवर सचिव (यथावत) श्रम मंत्रालय, नई दिल्ली, को दिनांक 1 नवम्बर, 2001 (पूर्वाह्न) से उत्प्रवासी संरक्षी-II, मुम्बई के रूप में नियुक्त करती है।

[सं. एस 11011/1/2000 (उत्प्रवास)]

एस.वी. कृष्णन, अवर सचिव

New Delhi, the 7th November, 2001

S.O. 3530.—In exercise of the powers conferred by Section 3, Sub-section (1) of the Emigration Act, 1983 (31 of 1983), the Central Government hereby appoints Shri R. G. Sahu, Under Secretary (in-situ), Ministry of Labour as Protector of Emigrants-II, Mumbai with effect from 1st November, 2001 (F.N.).

[No. S-11011/1/2000(Emig.)]

S. V. KRISHNAN, Under Secy.

नई दिल्ली, 19 दिसम्बर, 2001

का.आ. 3531.—उत्प्रवास अधिनियम, 1983 (1983 का 31) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुये केन्द्रीय सरकार श्री के. सुधाकरन, अनुभाग अधिकारी, विद्युत मंत्रालय नई दिल्ली को दिनांक 12 दिसम्बर, 2001 (अपराह्न) से उत्प्रवासी संरक्षी-II, थिरुवनन्तपुरम के रूप में नियुक्त करती है।

[सं. एस.-11011/1/2000-(उत्प्रवास)]

एस.वी. कृष्णन, अवर सचिव

New Delhi, the 19th December, 2001

S.O. 3531.—In exercise of the powers conferred by Section 3, Sub-Section (1) of the Emigration Act, 1983 (31 of 1983), the Central Government hereby appoints Shri K. Sudhakaran, Section Officer, Ministry of Power as Protector of Emigrants-II, Thiruvananthapuram with effect from 12th December, 2001 (A.N.).

[No. S-11011/1/2000(Erig.)]

S. V. KRISHNAN, Under Secy.

नई दिल्ली, 19 दिसम्बर, 2001

का.आ. 3532.—कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा 1 की उपधारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुये, केन्द्रीय सरकार एतद्वारा 1 जनवरी, 2002 को उस तारीख के रूप में नियत करती है, जिसको उक्त अधिनियम के अध्याय-4, अध्याय-5 और 6 [धारा-76 की उपधारा (1) और धारा-77, 78, 79 और 81 के सिवाय जो पहले ही प्रवृत्त की जा चुकी है] के उपबन्ध केरल राज्य के निम्नलिखित क्षेत्रों में प्रवृत्त होंगे, अर्थात्—

(1) "जिला मलपुरम के एरनाड तालुक में राजस्व ग्राम चुंगथारा, अमराम्बलम, इरुम्बुझि, आनक्कयम के अधीन आने वाले क्षेत्र"।

(2) "जिला मलपुरम के तिरुर् तालुक में राजस्व ग्राम कोडूर और कुट्टिप्पुरम के अधीन आने वाले क्षेत्र"।

[संख्या एस 38013/26/2001-एस-1]

के. सी. जैन, निदेशक

New Delhi, the 19th December, 2001

S.O. 3532.—In exercise of the powers conferred by Sub-section (3) of Section 1 of the Employees' State Insurance Act, 1948 (34 of 1948), the Central Government hereby appoints the 1st January, 2002 as the date on which the provisions of Chapter IV (except Sections 44 and 45 which have already been brought into force) and Chapter V and VI [except Sub-section (1) of Section 76 and Sections 77, 78, 79 and 81 which have already been brought into force] of the said Act shall come into force in the following areas in the State of Kerala, namely :—

1. "Chungathara, Amarambalam, Irumbuzhi, Anakkayam in Ernad Taluk of Malappuram District."

2. "Kodur and Kuttippuram in Tirur Taluk of Malappuram District."

[No. S-38013/26/2001-SS-1]

K. C. JAIN, Director

नई दिल्ली, 21 दिसम्बर, 2001

का.आ. 3533.—केन्द्रीय सरकार का समाधान हो गया है कि लोकहित में ऐसा अनिवार्य है कि भारत प्रतिमूर्ति मण्डलालय, नासिक रोड को जिस औद्योगिक दिग्दर्शक अधिनियम, 1948 (1948 का 14) की प्रथम अनुसूची की प्रविष्टि 12 के अन्तर्गत निदिष्ट किया गया है, उक्त

अधिनियम के प्रयोजनों के लिये लोक उपयोगी सेवाएं घोषित किया जाना चाहिये।

अतः अब, औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 2 के खंड (ड) के उपखंड (6) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुये, केन्द्रीय सरकार उक्त उद्योग को उक्त अधिनियम के प्रयोजनों के लिये तत्काल प्रभाव से छः मास की कालावधि के लिये लोक उपयोगी सेवा घोषित करती है।

[(फा. सं० एस-11017/18/97-आईआर (पी एल)]

एच. सी. गुप्ता, उप सचिव

New Delhi, the 21st December, 2001

S.O. 3533.—Whereas the Central Government is satisfied that the public interest requires that the

India Security Press, Nasik Road which is covered by item 12 of the First Schedule to the Industrial Disputes Act, 1947 (14 of 1947), should be declared to be a public utility service for the purposes of the said Act;

Now, therefore, in exercise of the powers conferred by sub-clause (vi) of clause (n) of Section 2 of the Industrial Disputes Act, 1947, the Central Government hereby declares with immediate effect the said industry to be a public utility service for the purposes of the said Act for a period of six months.

[F. No. S-11017/18/97-IR (PL)]

H. C. GUPTA, Dy. Secy.

